

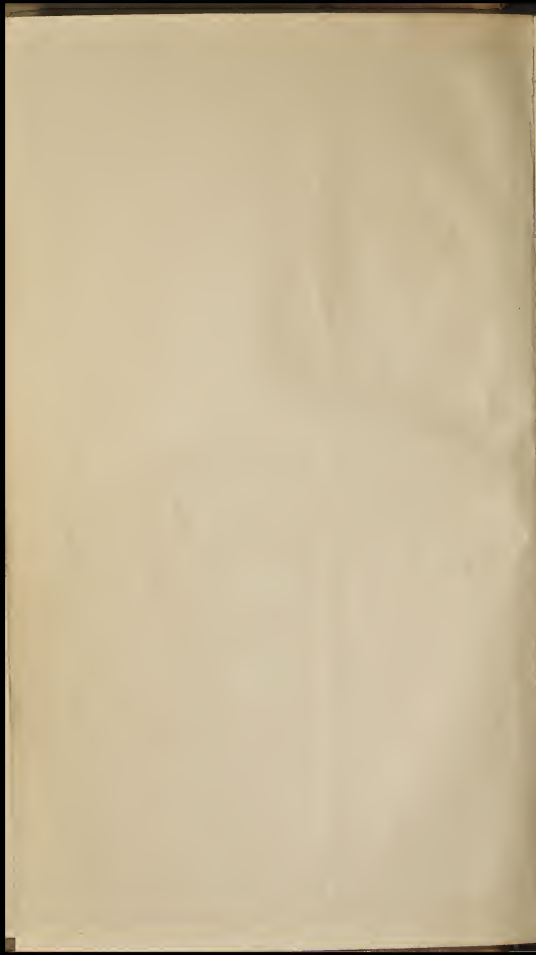
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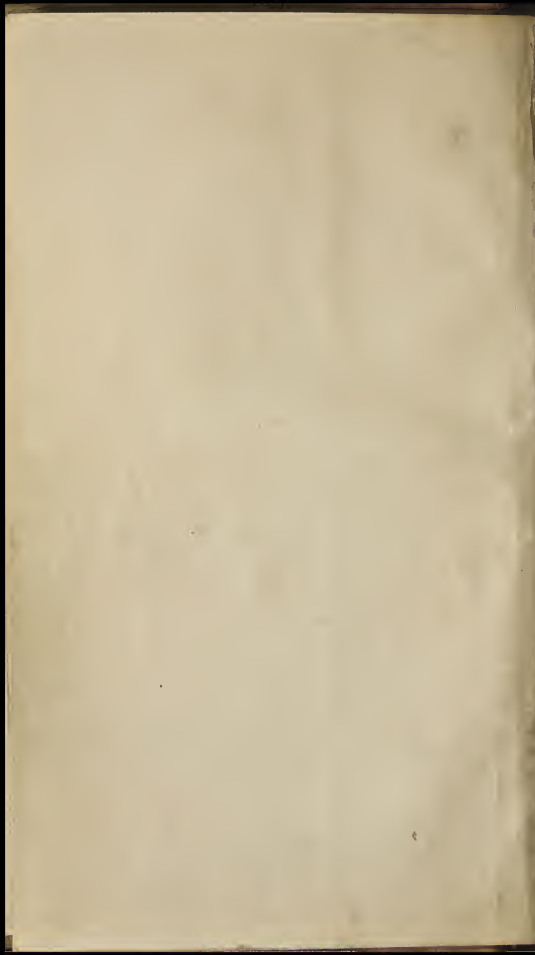
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THE
L A W S
OF
THE TERRITORY OF
LOUISIANA.

COMPRISING
ALL THOSE WHICH ARE NOW
ACTUALLY IN FORCE
WITHIN THE SAME.

PUBLISHED BY AUTHORITY.

ST. LOUIS. (L.)
PRINTED BY JOSEPH CHARLESS;
PRINTER TO THE TERRITORY.

.....
1808.
.....

J. A. W. S.

OF

THE HISTORY OF

THE

THE

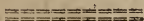
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L A W S
OF THE TERRITORY OF
LOUISIANA.



A LAW

Establishing the Office of Sheriff.

BE it enacted by the Governor and Judges of the Indiana Territory, authorised and empowered by an act of Congress to make Laws for the District of Louisiana, and it is hereby enacted by the authority of the same, That there shall be appointed and commissioned by the governor, in each district, a sheriff who shall take the oaths of allegiance to the United States, and of office, and shall give bond with two sufficient sureties in the penal sum of four thousand dollars, for the faithful discharge of the duties of his office.

Governor to
appoint sher-
iff—to take
oath—and
give bond.

Sec. 2. *And be it further enacted,* That the duties of each sheriff shall be to keep the peace by causing all offenders against law, in his view, to enter into recognizances, with sureties, for keeping the peace, and appearing at the next general quarter sessions in the same district, and to commit in case of refusal; and which recognizances shall by the said sheriff be returned and certified before

His duties.

the said quarter sessions, it shall also be his duty to quell and suppress all affrays, routs, riots, and insurrections; and for which end he shall and is hereby empowered to call to his aid the power of the county. He shall pursue, apprehend and commit to jail all felons, and traitors; he shall execute all warrants, writs and other process which by law shall appertain to the duties of his office, and which shall be directed to him by legal authority; he shall duly attend upon all courts of record, at their respective terms or sessions, in his district.

The foregoing is hereby declared to be a Law for the district of Louisiana. In testimony whereof, we, William Henry Harrison, governor, and Thomas T. Davis, Henry Vander Burgh and John Griffin, judges in and over the Indiana Territory, have hereunto set our hands, at Vincennes, the first day of October, 1804.

WM. HENRY HARRISON.
THOMAS TERRY DAVIS.
HENRY VANDER BURGH.
JOHN GRIFFIN.

A LAW

Regulating Boatmen.

B*F. it enacted by the Governor and Judges of the Indiana Territory, authorised to make Laws for the District of Louisiana, and it is hereby enacted by the authority of*

Contracts of the same, That all contracts and engagements

entered into by any person or persons whomsoever, for the rowing and navigating of boats or other crafts of any description on the navigable waters of the said district, shall be fulfilled by the person so engaging according to the true intent and meaning thereof.

Sec. 2. *And be it further enacted,* That if any boatman shall misbehave himself during the course of a voyage, neglect or refuse to do his duty, or quit the boat, it shall be lawful for any justice of the peace of the district, on complaint of the master of the boat if on board, or otherwise of the person having the charge thereof, to issue his warrant directed to any constable, commanding him to take the delinquent and to bring him forthwith before the said justice, who shall hear and determine the complaint in a summary manner, and shall have power and authority either to discharge the said offender, in which case he shall forfeit all wages due him, or also to commit him to jail for any term not exceeding thirty days, unless such offender shall then and there give security to be approved of by such justice in the sum of two hundred dollars, payable to the owner or owners of the boat, conditioned that he will during the remainder of the voyage do his duty according to his engagement.

On failure,
how to be
proceeded a-
gainst—

Penalty.

Sec. 3. *And be it further enacted,* That if any part of the cargo or tackling belonging to any boat shall be lost during a voyage, through the neglect or default of the crew, that then the property so lost shall be paid for, to the owner by the said crew.

Liable for
losses, etc.

Remedy a-
gainst owner,
etc.

Sec. 4. *And be it further enacted*, That any justice of the peace of the territory, shall on complaint of any person employed in navigating a boat, complaining of cruel usage from the owner, or of not being furnished with the necessary provisions, to summon the master or conductor before him, and to hear and determine the same in a summary manner, and also to discharge the complainant, and to order the owner or conductor in that case to pay him the whole or such part of the wages for the trip as the said justice may think proper, saving to the party who may think himself aggrieved his right of appeal to any court of record having cognizance of the same.

The foregoing is hereby declared to be a Law, for the District of Louisiana, to take effect accordingly. In testimony whereof, we, William Henry Harrison, governor, and Thomas T. Davis, Henry Vander Burgh, and John Griffin, judges in and over the Indiana Territory, have hereunto set our hands at Vincennes, the first day of October, one thousand eight hundred and four, and of the Independence of the United States the twenty-ninth.

WILLIAM HENRY HARRISON.

THOMAS TERRY DAVIS.

HENRY VANDER BURGH.

JOHN GRIFFIN

A LAW

*Entitled a Law establishing Recorder's
Offices.*

BE it enacted by the Governor and Judges of the Indiana Territory, authorised and empowered by an act of Congress to make laws for the District of Louisiana, and it is hereby enacted by the authority of the same, That there shall be an office of record in each and every district, which shall be called and styled 'The Recorder's Office,' and shall be kept in some convenient place in the said respective districts; and the recorder shall duly attend the service of the same, and at his own proper costs and charges, and shall provide parchment, or good large books of royal or other large paper, well bound and covered, wherein he shall record, in a fair and legible hand, all deeds and conveyances which shall be brought to him for that purpose according to the true intent and meaning of this Law.

Sec. 2. *And be it further enacted,* That all deeds to be recorded in pursuance of this law, whereby any estate of inheritance, in fee simple, shall hereafter be limited to the grantor and his heirs, the words 'grant, bargain, sell,' shall be adjudged an express covenant to the grantee, his heirs and assigns; to wit, that the grantor was seized of an indefeasible estate in fee simple, freed from incumbrances done or suffered from the grantor, (except the rents and services, that may be reserved) as also for quiet enjoyment a-

Recorder's
office establi-
shed

where to be
kept.—Re-
corder's du-
ties.

What words
in a deed
shall pass an
estate in fee
simple—and
amount to an
express cov-
enant, etc.

Proviso.

gainst the grantor, his heirs and assigns, unless limited by express words contained in such deed, and that the grantee, his heirs, executors, administrators and assigns, may in any action assign breaches, as if such covenants were expressly inserted. *Provided always* that this law shall not extend to leases at rack rent, or to leases not exceeding one and twenty years, where the actual possession goes with the lease.

Forging acknowledgements, how punished.

Sec. 3. *And be it further enacted*, That if any person shall forge any entry of the acknowledgements, certificates or endorsements, whereby the freehold or inheritance of any man may be charged, he shall be liable to the penalties against forgers of false deeds. And if any person shall perjure himself, in any of the cases here mentioned, he shall incur the like penalties as if the oath or affirmation had been in any court of record.

Punishment on perjury.

Mortgagee to enter satisfaction on record.

Sec. 4. *And be it further enacted*, That every mortgagee of any real or personal estate in this district having received full satisfaction and payment of all sum and sums of money as are really due to him, by such mortgage shall at the request of the mortgager enter satisfaction upon the margin of the record of such mortgage, recorded in the said office, which shall forever thereafter discharge, defeat and release the same, and shall likewise bar all actions brought or to be brought thereupon.

Sec. 5. *And be it further enacted*, That if such mortgagee by himself or his attorney shall

within three months after request and Penalty on
 der made for his reasonable charges, re- refusal.
 r to the said office, and there make ac-
 owldgement as aforesaid; he she or they
 glecting so to do, shall for every such of-
 ce forfeit and pay unto the party or parties
 grieved any sum not exceeding the mort-
 ge money; to be recovered in any court
 record by bill, plaint or information.

Sec. 6. *And be it further enacted,* That Recorder to
 ere shall be appointed a recorder in every be appointed,
 strict now or hereafter to be erected. But
 fore any of the said recorders enter upon
 y of their said offices, they shall become to give bond,
 und to the governor and his successors with
 e or more sufficient sureties in a bond for
 een hundred dollars, conditioned for the condition of
 e and faithful execution of his office, and bond,
 r delivering up the records and other writ-
 s belonging to the said office, whole, safe
 d undamaged to his successor in the said of-
 e. which said respective bonds, shall be
 ed in the secretary's office, and there safely where to be
 ept, to be made use of for making satisfac- lodged.
 on to the parties that shall be damnified or
 grieved, as is or shall be in such cases di-
 cted by law.

Sec. 7. *And be it further enacted,* That no
 recorder whatsoever, now or hereafter ap- Penalty on
 ointed as aforesaid, shall enter upon, or of- recorder of-
 ficiating not
 iate in his said office before he hath given being quali-
 ch security as aforesaid, upon pain of forfeit- fied.
 iting the sum of three hundred dollars, one
 alf to the district, and the other half to him
 r them who shall sue for the same, to be re-
 overed as aforesaid.

Deeds how to
be acknow-
ledged, or
proven, and
recorded,
and when—

Sec. 8. *And be it further enacted*, That all deeds and conveyances which shall be made and executed within this district of or concerning any lands tenements or hereditaments therein or whereby the same may be any way effected in law or equity, shall be acknowledged by one of the grantors or bargainners or proved by one or more of the subscribing witnesses to such deed before one of the judges of the general court, or before one of the justices of the court of common pleas of the district where the lands conveyed lies, and shall be recorded in the recorder's office of the district where such lands or hereditaments are lying and being, within twelve months after the execution of such deed or conveyances, and every such deed and conveyance, that shall at any time after the publication hereof be made and executed and which shall not be proved and recorded as aforesaid, shall be adjudged fraudulent and void against any subsequent purchaser, or mortgagee for a valuable consideration, unless such deed or conveyance be recorded as aforesaid before the proving and recording of the deed or conveyance under which such subsequent purchaser or mortgagee shall claim.

how proved
when gran-
tors or wit-
nesses are
dead.

Sec. 9. *And be it further enacted*, That where the grantors and witnesses of any deed or conveyance are deceased or cannot be had it shall and may be lawful to and for the judges of the general court, or any justices of the court of common pleas of the district where the land lies, to take the examination

any witness or witnesses on oath or affirmation to prove the hand-writing of such deed or writing, or where such witness or witnesses, or where such proof cannot be had then to prove the hand-writing of the grantor or grantors, which shall be certified by the judge or justice before whom such proof shall be made, and such deed or conveyance, being so proved shall be recorded as is usual in other cases directed by this law.

Sec. 10. *And be it further enacted,* That Recorder's
 every recorder shall keep a fair book in which duty,
 shall immediately make an entry of every deed or writing, brought into his office to be recorded, mentioning therein the date, the parties, and place where the lands, tenements or hereditaments granted or conveyed by the deed or writing are situate, dating the entry on the day on which such deed or writing was brought into his office : and shall record all such deeds and writings in regular session according to their priority or time being brought into the said office : and shall also immediately give a receipt to the person bringing in such deed or writing to be recorded bearing date on the same day with the entry, and containing the abstract aforesaid, for which entry and receipt he shall take and receive no fee or reward whatever, and no recorder shall record any deed or writing before another first brought into his office to be recorded, or in any other manner than is herein directed, or shall neglect or refuse to make such an entry, or to give such a re-

penalty on
failure,

how recover-
ed and by
whom,

ceipt as is herein before directed, or shall directly or indirectly take or receive any fee or reward for such entry and receipt, or either of them he shall forfeit and pay for every such offence a sum not exceeding three hundred nor less than one hundred dollars, one half to the use of the district and the other half to him or them that shall sue for the same, to be recovered in any court of record by action of debt, bill or plaint, wherein no effoign, protection or wager of law, or more than one imparlance shall be granted.

The foregoing is hereby declared to be a Law for the district of Louisiana, to take effect accordingly. In testimony whereof, we, William Henry Harrison, governor, and Thomas T. Davis, Henry Vander Burgh, and John Griffin, judges in and over the Indiana Territory, have hereunto set our hands at Vincennes, the first day of October, one thousand eight hundred and four, and of the Independence of the United States the twenty-ninth.

WM. HENRY HARRISON.
THOMAS TERRY DAVIS.
HENRY VANDER BURGH:
JOHN GRIFFIN.

A LAW

Entitled a Law respecting Slaves.

BE it enacted by the governor and judges of the Indiana Territory, authorised and empowered by an act of Congress to make laws for the District of Louisiana, and it is hereby enacted by the authority of the same, That no negro or mulatto shall be a witness, except in pleas of the United States against negro or mulatto or in civil pleas where negroes alone shall be parties.

No negro or mulatto to be a witness except in certain cases.

Sec. 2. *And be it further enacted,* That no slave shall go from the tenements of his master, or other person with whom he lives without a pass, or some letter or token whereby it may appear that he is proceeding by authority from his master, employer or overseer; if he does, it shall be lawful for any person to apprehend and carry him before a justice of the peace, to be by his order punished with stripes, or not, in his discretion.

No slave to depart from the tenement of his master without permission—

Sec. 3. *And be it further enacted,* That if any slave shall presume to come, and be upon the plantation of any person whatsoever, without leave in writing from his or her owner or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation, to give or order such slave ten lashes on his or her bare back for every such offence.

No slave shall come upon the plantation of any person without penalty. permission—

Sec. 4 *And be it further enacted,* That no slave or mulatto whatsoever, shall keep or carry any gun, powder, shot, club, or other

No slave, &c. to keep or

carry a gun, weapon whatsoever, offensive or defensive,
 &c.

penalty.

but all and every gun, weapon and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person and upon due proof thereof made before any justice of the peace of the district where such seizure shall be, shall by his order be forfeited to the seizer, for his own use, and moreover, every such offender shall have and receive by order of such justice any number of lashes not exceeding thirty-nine on his or her bare back, well laid on for every such offence.

Proviso in favor of free negroes in certain cases.

Sec. 5. *And be it further enacted*, That every free negro or mulatto, being a house keeper may be permitted to keep one gun, powder and shot; and all negroes or mulattoes, bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder, shot and weapons, offensive and defensive, by licence from a justice of the peace of the district wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of such as are slaves.

Who shall be deemed mulattoes.

Sec. 6. *And be it further enacted*, That every person other than a negro, whose grand father or grand mother any one is or shall have been a negro, although all his other progenitors, except that descending from the negro, shall have been white persons, shall be deemed a mulatto, and so every such person who shall have one fourth part or more, of negro blood, shall in like manner be deemed a mulatto.

Sec. 7. *And be it further enacted*, That all Riots, routs, unlawful assemblies and seditious speeches by a slave, or slaves, shall be punished with stripes, at the discretion of a justice of the peace, and he who will may apprehend and carry him, her or them before such justice.

Riots, &c. By slave or slaves how punished.

Sec. 8. *And be it further enacted*, That to prevent the inconvenience arising from the meetings of slaves, if any master, mistress or overseer of a family shall knowingly permit any slave not belonging to him or her, to be and remain upon his or her plantation, above four hours at any one time, without leave of the owner or overseer of such slave, he or she so permitting shall forfeit and pay three dollars for every such offence, and every owner or overseer of a plantation, who shall so permit or suffer more than five negroes or slaves, other than his or her own, to be and remain upon his or her plantation, or quarter at any other time, shall forfeit and pay one dollar for each negro or slave above that number, which said several forfeitures shall be to the informer, and be recoverable before any justice of the peace of the district, with costs, where such offence shall be committed. *Provided always*, that nothing hereinafter contained, shall be construed to prohibit the negroes or slaves of one and the same owner, though seated at different quarters, from meeting with their owner or overseer's leave, upon any plantation to such owner belonging, or to restrain the meeting of slaves on their owner's or overseer's business at any public

Penalty for permitting any slave to remain on any plantation without permission.

Proviso in certain cases.

mill, so as such meeting be not in the night time, nor on a Sunday, nor to prohibit their meeting on any other lawful occasion, by licence in writing from their owner or overseer, nor their going to church and attending divine service on the Lord's day nor any other day of public worship.

No white person, free negro or mulatto to be found in company with slaves at any unlawful meeting—penalty.

Sec. 9. *And be it further enacted*, That if any white person, free negro or mulatto, shall at any time be found in company with slaves at any unlawful meeting, or shall harbour or entertain any slave, without the consent of his or her owner, such person being thereof convicted before any justice of the peace, shall forfeit and pay three dollars for every such offence to the informer, recoverable with costs, before such justice; or on failure of present payment, shall receive on his or her bare back, twenty lashes well laid on, by order of the justice before whom such conviction shall be made.

Duty of justice of the peace upon an unlawful meeting of slaves

Sec. 10. *And be it further enacted*, That every justice of the peace, upon his own knowledge of such unlawful meeting, or information thereof to him made within ten days after, shall issue his warrant to apprehend such persons so met or assembled, and cause them to be brought before himself or any other justice of the district, to be dealt with as this act directs; and every justice failing herein shall forfeit and pay eight dollars for every such failure; and every sheriff or other officer who shall fail upon knowledge or information of such meeting to endeavour to suppress the same and bring the offenders

Duty of sheriff, under sheriff, serjeant and constable to

fore some justice of the peace to receive suppress
 e punishment, shall be liable to the like such unlaw-
 nalty of eight dollars, both which penalties ful meeting:
 all be to the informer, and recoverable with penalties for
 refusing.
 sts in any district court, by action of debt ;
 d every under sheriff, serjeant or constable
 no, upon knowledge or information of such
 meeting, shall fail to perform his duty in sup-
 pressing the same, and apprehending the per-
 sons so assembled, shall forfeit and pay four
 dollars for every such failure, to the informer
 recoverable with costs before any justice of
 the district.

Sec 11. *And be it further enacted,* That No person
 o person whatsoever shall buy, sell or re- shall buy,
 ceive of, to or from a slave, any commodity sell or re-
 whatsoever, without the leave or consent of ceive of, to
 or from a
 the master, owner or overseer of such slave. slave any
 commodity
 and if any person shall presume to deal with without per-
 mission
 y slave without such leave or consent, he from the
 master of
 the so offending shall forfeit and pay to the such slave :
 penalty for
 so doing.
 master or owner of such slave four times the
 value of the thing so bought, sold or received,
 to be recovered with costs by action upon
 the case in any court of record within this
 district, and shall also forfeit and pay the fur-
 ther sum of twenty dollars to any person who
 will sue for the same, to be recovered with
 costs in any court within this district having
 jurisdiction; or receive on his or her bare
 back thirty-nine lashes well laid on, but shall
 nevertheless be liable to pay the costs of the
 suit.

Sec. 12. *And be it further enacted,* That No negro
 f any negro or mulatto, bond or free, shall at or mulatto

shall lift his hand in opposition to any white person ; penalty--

certain cases excepted.

at any time lift his or her hand in opposition to any person not being a negro or mulatto, he or she so offending shall for every such offence proved by the oath of the party before any justice of the peace of the district where such offence shall be committed, receive such punishment as the justice shall think proper, not exceeding thirty lashes, on his or her bare back well laid on, except in those cases when it shall appear to such justice, that such negro or mulatto was wantonly assaulted and lifted his or her hand in his or her defence.

Run-away slaves how to be dealt with.

Sec. 13. *And be it further enacted*, That whereas many times slaves run away and lie hid and lurking in swamps, woods and other obscure places ; killing hogs and committing other injuries to the inhabitants of this district in all such cases, upon intelligence given of two or more slaves lying out as aforesaid, any two justices of the peace of the district wherein the slaves are supposed to lurk or do mischief shall be and are empowered and required, by warrant reciting their names and owners names, if known, to direct the sheriff of the said district to take such power with him, as he shall think fit and necessary for the effectual apprehending such out lying slave or slaves and go in search of them, and upon their being apprehended to commit them to the jail of his district for further trial.

Slaves consulting or conspiring to

Sec. 14. *And be it further enacted*, That if any negro or other slave shall at any time consult, advise or conspire to rebel or make

insurrection, or shall plot or conspire the murder of any person or persons whatsoever every such consulting plotting or conspiring shall be adjudged and deemed felony, and the slave or slaves convicted thereof shall suffer death and be utterly excluded all benefit of clergy.

Sec. 15. *And be it further enacted*, That if any negro or other slave, shall prepare exhibit or administer any medicine whatsoever, he or she so offending shall be judged guilty of felony and suffer death without benefit of clergy.

Slaves preparing, exhibiting or administering medicine how punished.

Sec. 16. *Provided always*, That if it shall appear to the court before whom such slave shall be tried that the medicine was not prepared exhibited or administered, with an ill intent, nor attended with any bad consequences such slave shall be acquitted.

Provido in certain cases.

Sec. 17. *Provided also*, That nothing herein contained shall be construed, to extend to any slave or slaves administering medicine by his or her master's or mistresses' order in his or her family or the family of another with the mutual consent, of the owner of such slave and the master and mistress of such family.

Further proviso where the medicine is administered, &c. with the consent of the owner.

Sec. 18. *And be it further enacted*, That if any master or owner of a slave shall license such slave to go at large, and trade as a free man, the master or owner shall forfeit and pay the sum of thirty dollars for the use of the poor of such district where such slave shall be found going at large, and trading as

No master or owner of any slave shall suffer such slave to go at large and trade as a free man : penalty for

the first of-
fence—
penalty for
the second
offence.

aforesaid, to be recovered by the overseers of the poor by action of debt in any court of record within this district, and if after conviction such slave shall be found going at large and trading the master or owner shall again be liable to the like penalty to be recovered as aforesaid, and so as often after conviction as such slave shall be found going at large and trading.

No person
shall suffer
his or her
slave to go at
large, or hire
him or her-
self out—

Sec. 19. *And be it further enacted*, That if any person shall permit or suffer his or her slave to go at large or hire him or herself out, it shall be lawful for any person to apprehend and carry such slave before any justice of the peace in the district where apprehended, and if it shall appear to the justice that such slave comes within the purview of this act, he shall order him or her to the jail of the district there to be safely kept until the next court, when, if it shall be made appear to the court that the slave so ordered to jail hath been permitted or suffered to hire him or herself out, contrary to the meaning of this act, it shall be lawful for the court and they are hereby required to order the sheriff or other officer of the district, notice being given by the sheriff or other officer at the court house door at least twenty days before the sale, to sell and dispose of every such slave for ready money.

penalty for
for so doing.

Money arising under the last section how appropriated.

Sec. 20. *And be it further enacted*, That twenty five per centum upon the amount of the sale of every slave so going at large, or hiring out himself or herself, shall be applied by the court ordering such sale to

wards lessening the district levy, and the residue shall be paid by the sheriff or other officer, after deducting five per centum for his trouble. and the jailor's fees, to the owner of such slave.

Sec. 21. *And be it further enacted,* That if any person shall hereafter be guilty of stealing or selling any free person for a slave, knowing the said person so sold to be free, and thereof shall be lawfully convicted, the person so convicted, shall suffer death without the benefit of clergy. Stealing or selling any free person for a slave how punished.

Sec. 22. *And be it further enacted,* That if any person or persons shall steal any negro or mulatto whatsoever, out of, or from the possession of the owner or overseer of such slave, the person or persons so offending shall be and are hereby declared felons, and shall suffer death without benefit of clergy. Stealing slaves how punished.

Sec. 23. *And be it further enacted,* That it shall be lawful for any person by his or her last will and testament or any other instrument in writing, under his or her hand and seal, attested and proved in the district court by two witnesses, or acknowledged by the party in the court of the district where he or she resides, to emancipate and set free his or her slave, or any of them, who shall thereupon be fully and entirely discharged from the performance of any contract entered into during servitude, and enjoy as full freedom as if they had been particularly named and freed by this act. *Provided always,* That all slaves so emancipated shall be liable to be In what manner slaves may be emancipated.

taken by execution to satisfy any debt contracted by the person emancipating them, before such emancipation is made. *Provided also*, That all slaves so set free, not being in the judgment of the court of sound mind and body, or being above the age of forty-five years, or being males under the age of twenty one, or females under the age of eighteen years, shall be respectively supported and maintained by the person so liberating them, or by his or her estate ; and upon neglect or refusal so to do, the court of the district where such neglect or refusal may be, is hereby empowered and required, upon application to them made, to order the sheriff or other officer, to distrain and sell so much of the persons estate, as shall be sufficient for that purpose. *And provided also*, That every person by written instrument in his lifetime, or if by last will and testament, executors of every person freeing any slave shall cause to be delivered to him or her, a copy of the instrument of emancipation, attested by the clerk of the court of the district, who shall be paid therefor by the person emancipating eighty-three cents, to be collected in the manner of other clerk's fees ; every person neglecting or refusing to deliver to any slave by him or her set free, such copy, shall forfeit and pay thirty dollars ; to be recovered with costs in any court of record, one half thereof to the person suing for the same, and the other to the person to whom such copy ought to have been delivered.

Slaves eman- Sec. 24. *And be it further enacted*, That it

shall be lawful for any justice of the peace to commit to the jail of his district, any emancipated slave travelling out of the district of his residence, without a copy of the instrument of his or her emancipation, there to remain until such copy is produced and the jailors fees paid.

Sec. 25. *And be it further enacted,* That in case any slave so liberated, shall neglect in any year to pay all taxes and levies imposed, or to be imposed by law, the court of the district shall order the sheriff or serjeant to seize him or her, for so long time as will raise the taxes and levies, provided sufficient distress cannot be made upon his or her estate.

Sec. 26. *And be it further enacted,* That having nevertheless to all and every person and persons, bodies politic or corporate, and their heirs and successors, other than the person or persons claiming under those so emancipating their slaves, all such right and title as they, or any of them could or might claim, if this act had never been made.

Sec. 27. *And be it further enacted,* That all Negroes and mulatto slaves in all courts of judicature within this district shall be held, taken and adjudged to be personal estate.

Sec. 28. *And be it further enacted,* That if any widow possessed of a slave or slaves as of the dower of her husband shall remove or voluntarily permit to be removed out of this district such slave or slaves, or any of their

emancipated travelling out of the district without a copy of emancipation, how to be dealt with.

Slaves emancipated failing to pay taxes how to be disposed of.

Proviso in favour of certain persons

Slaves declared to be personal chattels.

Nowidow entitled to dower in slaves to remove the same out of the district

unless, etc.

penalty.

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increase without the consent of him or her in reversion, such widow shall forfeit all and every such slave or slaves, all other the dower which she holds of the endowment of her husband's estate, unto the person or persons that shall have the reversion thereof; any law custom or usage to the contrary notwithstanding.

Any widow entitled as aforesaid, who marries a husband of- fending here- in—

dower to be forfeited.

Slaves de- scending to several per- sons in cer- tain cases how to be disposed of.

In what man- ner gifts of

Sec. 29. *And be it further enacted*, That if any widow possessed as aforesaid shall be married to a husband, who shall remove or voluntarily permit to be removed out of this district, any such slave or slaves, or any of their increase without the consent of him or her in reversion, in such case it shall be law- ful for him or her in reversion to enter into, possess and enjoy all the estate which such husband holdeth in right of his wife's dower for and during the life of the said husband.

Sec. 30th. *And be it further enacted*. That where one or more slaves shall descend from a person dying intestate and an equal division thereof cannot be made in kind, on account of the nature of the property, it shall be lawful for the general court, or the court of the dis- trict by which the administration to the estate of the intestate was granted, to direct the sale of such slave or slaves and the distribution of the money arising therefrom according to the rights of each claimant: *Provided always*, that each claimant shall be duly summoned to shew cause if any he can against such sale.

Sec. 31st. *And be it further enacted*. That no gift or gifts of any slave or slaves shall be

good or sufficient to pass any estate in such slave or slaves, to any person or persons whatsoever unless the same be made by will duly proved and recorded, or by deed in writing to be proved by two witnesses at the least, or acknowledged by the donor and recorded in the district court where one of the parties lives within eight months after the date of such deed or writing.

Sec. 32. *And be it further enacted*, That this act shall be construed to extend, only to gifts of slaves whereof the donors have notwithstanding such gifts remained in the possession, and not gifts of such slaves as have at any time come into the actual possession of, and have remained with the donee, or some person claiming under such donee.

Sec. 33. *And be it further enacted*, provided always, That nothing in this act contained shall be construed to alter any adjudication heretofore made, nor to effect the interest of any bona fide purchaser for a valuable consideration, or creditor of the donor before the donee hath been at least three years in possession of such slave or slaves under such gift.

Sec. 34. *And be it further enacted*, That no master of any ship or any other vessel, shall transport or carry any servant, whatsoever, or any negro or mulatto, or other slave, out of this district without the consent or permission of the person or persons to whom such servant or slave doth of right belong, upon penalty of forfeiting and paying one hundred and fifty dollars for every servant or

slaves shall be made to be valid.

Provided this act only to extend to where the donor keeps possession thereof.

This act not to alter any adjudication or affect bona fide purchases, etc.

Master of a vessel not to carry away any slave, etc. without permission, penalty.

have transported or carried hence, contrary to this act; one moiety to the district, and the other moiety to the owner of such servant or slave, to be recovered with costs, by action of debt or information in any court of record in this district, and moreover such master shall be liable to the suit of the party grieved at the common law for his or her damages.

Court may rule the defendant to give special bail.

Act of limitation to be no bar, &c.

Sec. 35. *And be it further enacted*, That in any action which shall be brought against the master of a ship or vessel under this act, the court wherein the same shall be depending may rule the defendant to give special bail if they see cause, and shall not allow him to plead in bar or give in evidence any act or statute of limitation any former or other law to the contrary notwithstanding.

The foregoing is hereby declared to be a law for the District of Louisiana, to take effect accordingly. In testimony whereof, we, William Henry Harrison, governor, and Thomas T. Davis, Henry Vander Burgh, and John Griffin, judges in and over the Indiana Territory, have hereunto set our hands at Vincennes, the first day of October, one thousand eight hundred and four, and of the Independence of the United States the twenty-ninth.

WM. HENRY HARRISON.
THOMAS TERRY DAVIS.
HENRY VANDER BURGH.
JOHN GRIFFIN.

A LAW

Entitled a Law of Defalcation.

B*Y* it enacted by the governor and judges
of the Indiana Territory, authorised
and empowered by an act of Congress to make
Laws for the District of Louisiana, and it is
hereby enacted by the authority of the same,

That if two or more, dealing together be indebted to each other upon bonds, bills, bargains, promises, accounts, or the like, and one of them commence an action in any court; if the defendant cannot gainsay the deed, bargain, or assumption upon which he is sued, it shall be lawful for such defendant, to plead payment of all, or part of the debt or sum demanded; and give any bond, bill, receipt, account or bargain in evidence, and if it shall appear, that the defendant hath fully paid or satisfied the debt or sum demanded the jury shall find for the defendant, and judgment shall be entered, that the plaintiff shall take nothing by his writ, and shall pay the costs. And if it shall appear, that any part of the sum demanded be paid, then so much as is found to be paid shall be defalcated; and the plaintiff shall have judgment for the residue, only, with costs of suit. But if it shall appear to the jury that the plaintiff is overpaid, then they shall give in their verdict for the defendant, and withal certify to the court, how much they find the plaintiff to be indebted; or in arrear to the defendant more than will answer the debt or sum demanded; and the sum or sums so certified shall be recorded with the verdict, and shall be deemed

Offset may
be plead by
defendant in
certain cases:

mode of pro-
cedure
therein.

as a debt of record; and if the plaintiff refuse to pay the same the defendant for recovery thereof, shall have a *scire facias* against the plaintiff in the said action, and have execution for the same, with the costs of that action.

Tender and refusal, to discharge defendant of costs, &c.

Sec. 2. *And be it further enacted*, provided always, That in all actions where a tender shall be made and full payment be offered by discount or otherwise, in such specie as the party, by contract or agreement, ought to do, and the party to whom such tender shall be made, doth refuse the same, and yet afterwards will sue for the debt or goods so tendered, the plaintiff shall not recover any costs in such suit.

Certain matters may be submitted to arbitration proceedings thereon.

Sec. 3. *And be it further enacted*, provided also, That in all cases where the plaintiff and defendant having accounts to produce one against another, shall by themselves or attornies or agents, consent to a rule of court for referring the adjustment thereof to certain persons mutually chosen by them in open court, (the award or report of such referees being made according to the submission of the parties, approved of by the court, and entered upon the record or roll) shall have the same effect, and be deemed and taken to be as available in law, as a verdict given by twelve men; and the party to whom any sum or sums of money are hereby awarded to be paid, shall have judgment, or a *scire facias* for the recovery thereof as the case may require and as is herein before directed concerning sums found and settled by a jury, any law or

usage to the contrary in any wise notwithstanding.

The foregoing is hereby declared to be a law for the district of Louisiana, to take effect accordingly. In testimony whereof, we, William Henry Harrison, governor, and Thomas Terry Davis, Henry Vander Burgh, and John Griffin, judges, in and over the Indiana Territory have hereunto set our hands at Vincennes, the first day of October, one thousand eight hundred and four, and of the Independence of the United States, the twenty-ninth.

WILLIAM HENRY HARRISON.

THOMAS TERRY DAVIS.

HENRY VANDER BURGH.

JOHN GRIFFIN.

A LAW

Regulating the oath of office.

BE it enacted by the Governor and Judges of the Indiana Territory, authorised and empowered by an act of Congress to make laws for the District of Louisiana, and it is hereby enacted by the authority of the same, That every person appointed to any civil office in the district, and commissioned by the governor, shall previous to his entering upon the exercise of his office, take the following oath, viz: I, A.B. being appointed to the office of _____, do solemnly swear, that I will, well and truly execute the duties of my said office, according to the best of my skill

Persons appointed to office to take oath—
form of oath.

and understanding, without fraud or partiality.- So help me God.

Affirmation
admitted in
certain cases,

its form.

Sec. 2. *And be it further enacted*, That any person appointed as aforesaid, conscientiously scrupulous of taking an oath, shall make the following affirmation, previously to entering upon the duties of his office, viz I, A.B. being appointed to the office of do solemnly, sincerely and truly, declare and affirm, that I will, well and truly execute the duties of my said office, according to the best of my skill and understanding without fraud or partiality, and this I declare and affirm under the pains and penalties of perjury.

By whom to
be administered.

Sec. 4. *And be it further enacted*, That all oaths of office, or declarations and affirmations prescribed as aforesaid, shall be taken before the governor or such person or persons as shall by him be appointed and commissioned for that purpose, and certified upon the commission of the person taking the same. And in case of the absence of the governor, the said oath or declaration or affirmation, may be taken before and certified by either of the judges of the district.

ful

The foregoing is hereby declared to be law for the district of Louisiana, to take effect accordingly. In testimony whereof, we William Henry Harrison, governor, and Thomas T. Davis, Henry Vander Burgh, and John Griffin, judges, in and over the Indian Territory, have hereunto set our hands at Vincennes, the first day of October, 1804.

thousand eight hundred and four, and of the Independence of the United States, the twenty-ninth.

WILLIAM HENRY HARRISON.
THOMAS TERRY DAVIS.
HENRY VANDER BURGIL.
JOHN GRIFFIN.

A LAW

Creating the office of Attorney General, and defining the duties of the same.

BE it enacted by the Governor and Judges of the Territory of Louisiana, That Governor to there shall be appointed and commissioned appoint attorney general by the Governor a suitable person learned in the Law, as Attorney General of the said territory.

Sec. 2. It shall be the duty of the said attorney general to prosecute in the said Territory all pleas, civil and criminal, in the behalf of the United States or of said territory. his duties: may appoint And the said attorney general shall have power to appoint suitable deputies in the several districts of the territory for the purposes of prosecuting aforesaid.

Sec. 3. And the said attorney general and his deputies shall before they respectively proceed to exercise the duties of their offices take an oath to support the constitution of the United States, and faithfully to discharge the duties of attorney general, or deputy, as the case may be, to take oath.

Law when in
force.

The foregoing is hereby declared to be
Law of the Territory of Louisiana, and to
take effect from the passage thereof.

In testimony whereof, we, James Wilk-
son, governor of the territory of Louisiana,
and John B. C. Lucas and Return Jonathan
Meigs, junior, judges of the same, have signed
our names, and caused the seal of the ter-
ritory to be hereunto affixed at St. Louis
this sixth day of May, Anno Domini, one
thousand eight hundred and six, and of the
Independence of the United States the thir-
tieth year.

(Signed) J. A. WILKINSON.

JOHN B. C. LUCAS.

RETURN. J. MEIGS, jr.

A LAW

*To prohibit the sale, exchange or gift of any
spirituous, vinous or other strong liquors to
Indians.*

The sale, &c.
of spirituous
liquors to in-
dians prohi-
bited : under
certain
penalties.

B *It enacted by the Governor and judges
of the Territory of Louisiana, That if*
any person within this Territory, except by
permission from the superintendant of Indian
affairs, shall sell, exchange, furnish or give to
any Indian any spirituous, vinous, or other
strong liquor, and shall be convicted thereof,
he or she shall forfeit and pay a sum not less
than thirty, nor more than one hundred
and fifty dollars ; or shall be imprisoned
not exceeding thirty days nor less than ten,

at the discretion of the court.

Sec. 2. *And be it further enacted*, by the authority aforesaid, That the justices of the general quarter session of the peace within their respective districts, are hereby empowered, authorised and required to proceed against and punish all persons offending against this act, and upon the testimony of one or more credible witnesses, or on the confession of the party accused, to convict the person who shall be found guilty as aforesaid.

What courts shall have jurisdiction of offences under this act: and what shall be deemed legal proofs

Sec. 3. *And be it further enacted*, by the authority aforesaid, that two thirds of the fines and forfeitures which shall accrue under this act, shall be paid to the treasurer of the territory; and the other one third to the use of the informant, except when the prosecution shall be first instituted in behalf of the territory, in which case the whole shall be for the use thereof.

Fines appropriated.

The foregoing is hereby declared to be a law for the territory of Louisiana, and to take effect from the day it shall be publicly notified in the district of Saint Louis after the date thereof, and three weeks thereafter in the other districts of the said territory.

When this act shall be in force.

In testimony whereof we James Wilkinson, governor, and Return J. Meigs and John B. C. Lucas, judges in and over the territory of Louisiana, have hereunto set our hands at St. Louis, this twenty sixth day of May in the year of our Lord one thousand eight hun-

and six, and of the Independence
United States the thirtieth.

J. A. WILKINSON.

RETURN J. MEIGS,

JOHN B. C. LUCAS.

AN ACT

For regulating Ferries.

BE it enacted by the Legislature of the Territory of Louisiana, That no person or persons shall keep a ferry in the Territory, so as to demand or receive pay, without a special license first had and obtained from the court of general quarter sessions of the peace of the district wherein such ferry may be; and the said court are hereby empowered on the payment of such sum as the said court shall deem reasonable, not less than five dollars, nor exceeding one hundred dollars, for the use of such district, to grant a license to each and every person applying who shall be judged suitable for such service by the same court, for the term of one year from the time of giving such license to keep a ferry at such place as the said court shall judge necessary. And the court shall regulate the fare or ferriage at each ferry for passengers, horses, and other creatures, carriages, waggons, carts, teams and other things transported, always having regard to the breadth and situation of the stream, and the public utility of the ferry: and provided always that

Keepers of
Ferries to be
licensed by
the courts of
Quarter Ses-
sions.

Court to fix
the sum to be
paid for li-
cence.

Licence to be
granted for
one year.

Fare or fer-
riage to be
stated by the
court.

Keepers of

any person having applied for a license as a ferryman to
 the said court, shall before the same shall be granted, give bond with sufficient sureties to the
 district treasurer of the district wherein such
 ferry may be, and to his successors in office,
 in such sum as the said court shall order, con-
 ditioned for the faithful performance of the
 duties and services of his place.

Sec. 2. *And be it further enacted,* That every ferryman at the several ferries in this ter-
 ritory shall keep a good boat, or boats, in
 good repair, suitable to the water they are to
 ferry over, and give ready and due attendance
 on passengers on all occasions, and shall give
 the like attendance when waggons, carts,
 horses, or other things are to be transported.
 And every ferryman neglecting or refusing to
 give such attendance, shall for every such of-
 fence forfeit and pay the sum of two dollars
 and for neglect in keeping such boat, or boats
 and in good repair as aforesaid he shall forfeit
 the sum of thirty dollars: one moiety of which
 fines shall go to him or her who shall prose-
 cute the same to effect, and the other moiety
 to the use of the district wherein such ferry
 may be, and be further liable to pay in an
 action of trespass on the case all such special
 damages as any person shall sustain by such
 neglect.

ferries to
 give bonds.

Ferryman to
 keep good
 boats; in
 good repair.

to give due
 attendance.

penalty on
 neglect.

Fines how
 disposed of

Sec. 3. *And be it further enacted,* That each and every ferryman, so licensed as a-
 foresaid shall keep a list of the rates of fer-
 riage at such ferry as is established by law,
 written in a fair and legible hand, constantly

List of the
 rates of fer-
 riage to be
 posted up at
 each ferry.

Penalty on
neglect.

Fines how
appropriated.

posted up. at some public place either at the ferry or at the ferry-house, and if any such ferryman shall neglect or refuse so to do, he shall forfeit and pay the sum of four dollars for every such offence, the one moiety whereof shall go to the use of the district wherein such ferry may be, and the other half to him who shall prosecute for the same.

No person to
keep a ferry
without a
license.

Penalty.

Fines how
appropriated

Offenders li-
able to a pri-
vate action.

How fines are
to be recov-
ered.

When to be
sued for.

Sec. 4. And be it further enacted, That if any person or persons shall keep a ferry or transport passengers or any of the things mentioned in, or coming within the purview of the first section of this act, over or across an unlicensed ferry, so as to demand or receive pay not having first obtained a license in the manner before pointed out, he or they shall for every such offence forfeit and pay the sum of ten dollars, one moiety thereof to the use of the district wherein such ferry may be, and the other moiety to him or her who shall prosecute the same to effect: and be further liable in a special action of trespass on the case, to pay such damages as may or shall accrue to the person licensed and authorized to keep such ferry:---All of which penalties shall be sued for before some justice of the peace of the district where the offence is committed, in an action of debt or *qui tam*. *Provided always*, that every offence against this law, shall be prosecuted within one year after the offence is committed.

Court may
revoke licenses
where the

Sec. 5. And be it further enacted, That upon the non-performance of his duties as a ferryman, the said court may at any time re-

voke his license, and grant the same to any other suitable person, subject to the conditions herein before recited.

duties of ferry-
men are
not perform-
ed, and grant
the same to
another.
When this
act to be in
force.

The foregoing is hereby declared to be a law of the territory of Louisiana, to take effect accordingly.

In testimony whereof, we, James Wilkinson, governor, and Return Jonathan Meigs, junior and John B. C. Lucas, Judges in and over the territory of Louisiana have hereunto set our hands, at the town of Saint Louis, the ninth day of July, in the year of our Lord one thousand eight hundred and six, and of the Independence of the United States the thirty-first.

J. A. WILKINSON.

RETURN J. MEIGS, jr.

JOHN B. C. LUCAS.

AN ACT

To prevent seed horses from running at large.

BE it enacted by the Legislature of the Territory of Louisiana, That from and after the first day of January next, it shall be unlawful for any seed horse or stallion to run at large : and any person or persons whose seed horse or stallion shall be found running at large after the said first day of January, shall upon conviction thereof before any court of record in this territory be fined for the first offence any sum not exceeding three dollars, for the second offence a sum not exceeding six dollars, and for each offence there-

Seed horses
or stallions
prohibited
from running
at large : un-
der certain
penalties.

Penalties
how disposed
of.

after a sum not exceeding ten dollars: the one half of which forfeitures shall go to him or her who shall prosecute the same to effect, and the other half to the district treasury of the district in which the offence is committed.

Such horses
so found
running at
large may by
any person
be taken up,
notice there-
of to be set
up.

Sec. 2. *And be it further enacted,* That it shall and may be lawful for any person to take into his custody any feed horse or stallion which may be found so running at large: and shall thereupon set up one or more notifications, at the place or places where public notifications are usually set up, stating that he has taken into his custody, a feed horse or stallion found running at large, with a description as near as may be of such feed horse or stallion; and if at the end of ten days from the time of setting up such notification, no owner or proprietor shall appear for such feed horse or stallion, such person may call to his assistance two assistants, and may castrate the said feed horse or stallion: provided always, that the operation shall be performed in the usual manner so that the life of the animal be endangered as little as possible.

If no owner
appears in
ten days, the
said horse
may be cas-
trated—

Proviso.

No owner ap-
pearing in
two months,
application to
be made to
the court of
quarter ses-
sions for the
sale of such
horse.

Sec. 3. *And be it further enacted,* That if no owner or proprietor shall appear for the said horse so castrated within two months from the time of setting up the notification before required, then it shall be lawful for the person having such horse in his possession to apply to the next court of general quarter sessions of the peace for the district in which he or she resides, for the sale of such horse; and the said court are hereby authorized,

Sale to be or.

empowered and required to order the sale of ~~dered~~ such horse at the court-house door on some day of the same term of said court, which shall be sold by the sheriff to the highest bidder; and the sheriff shall immediately after such sale, deposit the sum for which such horse sold, retaining first his own legal fees, money arising from such sale where to be deposited. into the hands of the clerk of the said court, and the said court shall, after allowing to the person who has thus castrated and kept the said horse in his custody, his reasonable charges and expences for castrating and keeping said horse, pay the remainder of the sum for which such horse has been sold, if any there be, into the district treasury for the use of the district. *Provided always*, that the said sum so deposited in the district treasury, be paid to any person who shall within three years next thereafter, make sufficient and ample proof that such horse at the time of such sale was his or her property, which proof shall be made to the said court of general quarter sessions of the peace. proceeds how to be disposed of. Proviso in favour of the person claiming the same within three years.

The foregoing is hereby declared to be a law of the territory of Louisiana to take effect accordingly. When this act is to be in force.

In testimony whereof, we, James Wilkinson, governor, and Return Jonathan Meigs, junior, and John B. C. Lucas, Judges, in and over the territory of Louisiana have hereunto set our hands, at the town of St. Louis, the ninth day of July, in the year of our Lord one thousand eight hundred and six, and of

the Independence of the United States the thirty-first.

J. A. WILKINSON.

RETURN J. MEIGS, jr.

JOHN B. C. LUCAS.

AN ACT

Concerning Marriages.

All marriages heretofore solemnized by any preacher of the gospel or magistrate declar'd good and valid.

BE it enacted by the Legislature of the Territory of Louisiana, That all marriages heretofore solemnized in this territory by any preacher of the gospel, magistrate or regularly ordained clergyman, shall be and the same are hereby declared to be good and valid in law to all intents and purposes.

Sec. 2. *And be it further enacted,* That all such marriages shall within six months from the passing of this act be certified by the person who hath performed the ceremony, or by two or more witnesses, to the clerk of the court of quarter sessions of the district in which said marriage or marriages have been celebrated, who shall commit the same to record in *memoriam rei*, and file the said certificate in his office, and shall receive for his services and trouble in so doing the sum of fifty cents for every certificate so recorded.

Such marriages to be certified and recorded—
Fees of clerk for recording the same.

Ceremony of marriage hereafter may be performed by any preacher of the gospel

Sec. 3. *And be it further enacted,* That from and after the passing of this act, it shall be lawful for any preacher of the gospel, magistrate, or regularly ordained clergyman, to perform the ceremony of marriage within this territory, to be certified and recorded

and the certificate to be filed, and the clerk to be entitled to the same fees, as is provided for in the second section of this act.

The foregoing is hereby declared to be a law for the territory of Louisiana, to take effect accordingly.

In testimony whereof, we, James Wilkinson, governor, and Return Jonathan Meigs, junior, and John B. C. Lucas, judges in and over the territory of Louisiana, have hereunto set our hands at the town of Saint Louis the ninth day of July, in the year of our Lord one thousand eight hundred and six, and of the Independence of the United States the thirty-first.

(Signed)

J. A. WILKINSON.

RETURN J. MEIGS, jr.

JOHN B. C. LUCAS.

AN ACT

To license and regulate Taverns.

BE it enacted by the Legislature of the Territory of Louisiana, That for the prevention of disorders and mischiefs which may happen by a multiplicity of public houses of entertainment, no person or persons shall after the first day of November next, have or keep any public inn, tavern, dram, shop or public house of entertainment, in any town, place, or district within this territory, unless such person or persons shall first be

magistrate;
etc.

Certificate thereof to be recorded— fees of clerk for recording the same.

When this act to be in force.

No person to keep a tavern unless licensed by the court of Q. Sessions—

Penalty ;

how recovered,

and appropriated.

licensed therefor by the court of quarter sessions under the penalty of paying ten dollars for every day such person or persons shall keep such public inn, tavern, dram-shop or public house of entertainment, to be recovered with costs before any two justices of the peace of the district in which the offence shall have been committed ; one third of which shall be for the use of the person prosecuting the same and the other two thirds to the treasury of the district.

Licenses to be given for one year.

tavern-keepers not to suffer drunkenness, &c. in their houses.

Penalty—

after which license to be revoked—

tavern keepers to keep good entertainment.

Sec. 2. *And be it further enacted*, That the said licenses shall be given for no longer time than one year, but may be annually renewed by the said court. And if any person so licensed shall knowingly suffer any disorder fighting or drunkenness in his, her or their public house or houses, he, she or they shall for every such offence forfeit and pay to the treasury of the district the sum of two dollars, to be recovered as in the first section of this act is provided for ; and the said court upon sufficient proof that any person so licensed keeps an irregular, disorderly public house shall have the power to revoke and annul the said license ; after which if such person shall continue to keep a public inn, tavern, dram-shop, or public house of entertainment such person shall be liable to the penalties provided for in the first section of this act, to be recovered and disposed of in like manner ; and all tavern keepers and inn keepers who shall not provide and furnish good entertainment and accommodation for man and horse, shall be

able to have their licenses revoked at the discretion of said court.

Sec. 3. *And be it further enacted*, That the person obtaining such license, shall pay therefor for every license, a sum not less than ten dollars nor more than thirty dollars, according to the discretion of the said court, who shall take into consideration the stand and business which may be probably done therein; which said sums so received for licenses shall be paid by the said court forthwith, into the district treasury, taking the treasurer's receipt therefor.

Sum to be paid for license;

how appropriated.

Sec. 4 *And be it further enacted*, That no person or persons other than those qualified by this law so to do, shall presume under any colour or pretence to sell, barter, or deliver, any wine, rum, brandy, whiskey or other spirits, strong water, beer, cyder, or any mixed or strong liquors to be used or drank within his, her or their houses, yards or sheds, with his or their knowledge, consent or privacy, or to be used or drank in any shelters, places or woods near or adjacent to them, by companies of servants, slaves or others, nor to retail or sell to any person or persons any rum, brandy, whiskey or other spirits or strong water by less quantity or measure than one quart, nor any wine by less quantity or measure than one quart, nor any beer, ale, porter or cyder by any quantity or measure less than one gallon, the same liquors being respectively delivered to one person and at one time, without any collusion or fraud contrary to the true intent and meaning of this act, every

Persons not licensed not to sell under certain quantities.

Penalty for
thus done.
Penalty how
to be recovered
and appropriated.

person offending herein shall pay a fine of five dollars, to be recovered by indictment and to be paid into the treasury of the proper district.

The selling
of liquors to
servants,
slaves, non-
commissioned
officers
and soldiers
of the U. S.
army,
and harbour-
ing them
without per-
mission, pro-
hibited.

Penalty, how
recovered

and appro-
priated.

No action to
be supported
by any tavern
keeper a-
gainst any
minor, his
parents or
guardians for
tavern charges,
unless,
&c.

Sec. 5. *And be it further enacted.* That no person shall furnish supply or sell to any bond servant or slave, or to any non-commissioned officer or private soldier of the United States army, any rum, brandy, whiskey, spirits or any other strong liquors or waters mixed or unmixed, either within or without doors, nor shall receive, harbour, or entertain any bond servant or slave, or any non-commissioned officer or private soldier of the United States army, in or about his, her or their houses without a license obtained from the master or mistress of such servant or slave respectively, or from some commissioned officer of the United States army under the penalty of paying the sum of ten dollars, to be recovered before any justice of the peace of the district wherein the offence was committed, and be paid into the district treasury.

Sec. 6. *And be it further enacted,* That no action shall be supported in any of the courts in this territory by any tavern keeper or inn-keeper against any minor or the parents or guardians of any minor for any charges of tavern or inn expences, unless such minor shall have been permitted and used to conduct business for himself and on his own account.

The foregoing is hereby declared to be a Law for the territory of Louisiana to take effect accordingly.

In testimony whereof we, James Wilkinson, governor, and Return Jonathan Meigs, junior, and John B. C. Lucas, judges, in and over the territory of Louisiana, have hereunto set our hands at the town of Saint Louis, the ninth day of July in the year of our Lord, one thousand eight hundred and six, and of the Independence of the United States the thirty first.

(Signed)

J^A WILKINSON.

RETURN J. MEIGS, Jr.

JOHN B. C. LUCAS.

AN ACT

Concerning Prison Bounds.

B*It enacted by the Legislature of the Territory of Louisiana, That at the first term of the court of the general quarter sessions of the peace which shall be held after the passing of this act in the several districts of this territory, the said courts respectively shall fix and establish prison bounds, immediately contiguous to the public goals of their districts, which shall not exceed the distance of fifteen rods from such goal. And the said courts shall respectively cause their doings therein to be recorded, and shall also cause to be erected posts, where necessary to ascertain such established bounds, which bounds shall be posted up at the door*

Courts of Quarter sessions to fix prison bounds in their districts

Proceedings to be recorded, and posts to be erected; bounds to be

posted up at
gaol door by
the sheriff.

of the gaol in some conspicuous place there
on by the sheriff.

Debtors in
certain civil
cases to be
admitted to
go within the
prison
bounds,

on giving
bonds to the
sheriff.

In suits on
such bonds
how judg-
ment shall be
rendered.

Execution
thereon how
to be issued.

Not admitted
in such cases
to the prison
bounds.

Sec. 2. *And be it further enacted*, That whenever any person shall be committed to gaol upon mesne process or execution in any civil suit except as is herein after provided it shall be the duty of the sheriff, and he is hereby authorized and empowered to permit such person to go at large within the said prison bounds: *Provided always* that before such permission the person so committed shall have given bonds to the said sheriff for the use of the creditor or creditors, plaintiff or plaintiffs, with two sufficient sureties, in twice the sum demanded in such process or twice the sum for which the execution issued, conditioned that if such person shall not trespass or pass over such bounds until discharged by due course of law from such commitment, such bond shall be void.

Sec. 3. *And be it further enacted*, That if such person, his sureties or either of them shall be sued on such bond for the transgression of passing over or without such established bounds, and final judgment shall be rendered against him or them upon such suit, such judgment shall be for the amount of the former demand, with interest and costs, and execution shall issue thereupon against the body or bodies of such person or persons, and they or either of them be committed to gaol on said execution, then and in every such case, he or they shall not be suffered to have or enjoy the privilege of going at large within such bounds so established.

The foregoing is hereby declared to be a law for the territory of Louisiana, to take effect accordingly.

In testimony whereof we James Wilkinson, governor, and Return J. Meigs, jr. and John B. C. Lucas, judges in and over the territory of Louisiana, have hereunto set our hands at the town of St. Louis, the ninth day of July, in the year of our Lord one thousand eight hundred and six, and of the Independence of the United States the thirty-first.

(Signed)

J. A. WILKINSON.

RETURN J. MEIGS, jr.

JOHN B. C. LUCAS.

AN ACT

For the appointment of the Clerk of the General Court.

BE it enacted by the Legislature of the Territory of Louisiana, That the governor shall have power to appoint and commission a clerk of the general court, who shall hold his office during good behaviour: provided that such clerk shall produce to the governor a certificate from two of the judges of the said court, certifying that he, in the opinion of the said judges, possesses the abilities and is competent to fill the said office, which certificate the said judges are hereby required to give to such person applying for

Governor to
appoint clerk
of gen. court;

clk. to hold
his office dur-
ing good be-
haviour.

Clk. to pro-
duce to the
governor a
certificate
from 2 judges
of said court,
certifying his

qualifications the same, if upon examination it shall appear to them that he is qualified as aforesaid.

Judges re-
quired to
give the
same in cer-
tain cases

Clk. to take
and subscribe
oath of office.

Form of the
oath.

Oath to be
taken before
one of the
judges of the
gen. court.

Clk. to give
bond.

And if the
clerk shall
refuse to
take the
oath or
give the
bond

Sec. 2. *And be it further enacted,* the said clerk before he enters upon the execution of his office, shall take and subscribe the following oath or affirmation, to wit: "I A. B. being appointed and commissioned clerk of the general court for the territory of Louisiana, do solemnly swear (or affirm) that I will truly and faithfully enter and record all the orders, decrees, judgments and proceeding of the said court and that I will faithfully and impartially discharge and perform all the duties of my said office according to the best of my ability and understanding. So help me God" which words "so help me God" shall be omitted in all cases where an affirmation is admitted instead of an oath: which oath or affirmation any one of the judges of the general court are hereby authorized and required to administer. And the said clerk shall also give bond with sufficient security (to be approved of by the governor) to the governor and his successors in office, in the sum of two thousand dollars, faithfully to discharge the duties of his office, and seasonably to record the decrees, judgments and determinations of the said court, which bond shall be filed in the office of the secretary of the territory, and there safely kept to be made use of for making satisfaction to the parties who shall be damaged or injured.

Sec. 3. *And be it further enacted,* That

the clerk of the said general court, shall keep an office and reside in the territory, at such place as the said general court shall be holden, which said office shall be free and accessible at all seasonable hours to all persons having business to do therein.

Clerk to keep an office &c. at the place where the court is holden.

Sec. 4. *And be it further enacted*, That all writs and other process directed to the respective inferior courts or to the sheriffs of the respective districts, which may have been issued by William Prince or Alexander Mc-Nair, or their deputies in their names, as clerks of the said general court, returnable to the last Tuesday in October, one thousand eight hundred and six, and served, and other proceedings had before the said William Prince, or Alexander M'Nair, or their deputies, as clerks of the said general court, shall be held and deemed of the same validity and effect as if the same had been issued and had by a clerk of the said general court duly and regularly appointed and commissioned to act as such.

Certain process issued by and proceedings had before W. Prince and A. M'Nair, &c as clerk of G. C. declared valid.

Sec. 5. *And be it further enacted*, That it shall be the duty of the said clerk of the general court to procure within six months from the passage of this law, or sooner if possible, under the direction of the judges of the said general court, a public seal, which seal shall be styled "The Seal of the General Court of the territory of Louisiana," and all writs and processes issuing from the said court shall be under the seal of the said court. Provided that until such seal can be procured the pri-

Clerk to procure a public seal for said court,

its style—

all process to be sealed therewith,

Private seal
of the clerk
to be used
until public
seal is pro-
cured.
Expenses of
seal and
screw to be
paid out of
T. treasury.

vate seal of the clerk shall be considered as the seal of the said court.

Sec. 6 *And be it further enacted*, That the expences necessarily accruing in procuring the said seal and a screw therefor shall be paid out of the territorial treasury upon an order to be drawn by the governor for the amount of the same.

Law in force
from its pas-
sage.

The foregoing is hereby declared to be a Law of the territory of Louisiana, and to take effect accordingly.

In testimony whereof, we, Joseph Browne, secretary of the territory of Louisiana and exercising the government thereof, and John B. C. Lucas and Otho Shrader, judges, in and over the said territory, have hereunto set our hands at the town of St. Louis, the twenty eighth day of October, in the year of our Lord one thousand eight hundred and six, and of the independence of the United States of America the thirty-first.

(Signed)

JOSEPH BROWNE.

JOHN B. C. LUCAS.

OTHO SHRADER.

CHESTER H. KRUM,
ST. LOUIS.

A LAW

To amend an act entitled "A Law establishing Courts of Judicature."

BE it enacted by the Legislature of the Territory of Louisiana, That if any party to a suit now depending or hereafter to be commenced in any court of record in this territory shall at any time before the trial of such cause by himself or counsel require a trial by jury, the court before whom the suit is depending shall cause a jury to be impaneled for the trial thereof.

Parties may have a trial by jury.

Sec. 2. And be it further enacted, That in all cases where neither party shall require a trial by jury, the law and the facts may be determined by the court; or the court if they shall think proper may refer such cause to three or more indifferent and competent persons, whose report, if approved of by the court, shall have the same effect as a verdict given by twelve men.

Court to try causes where jury is not required, or refer it to arbitration.

Sec. 3. And be it further enacted, That this law shall be read by the clerks in open court on two different days during the present session of the general court, and during the next session of any court of common pleas in the respective districts.

This act to be read in certain courts, etc.

Sec. 4. And be it further enacted, That so much of any law of this territory as is repugnant to this act shall and the same is hereby repealed.

Repealing clause.

In testimony whereof, we, Frederick Bates secretary of the territory of Louisiana, and

exercising the government thereof, and John B. C. Lucas and Otho Shrader, judges, in and over the said territory, have hereunto set our hands at the town of St. Louis, the seventh day of May, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States the thirty first.

(Signed)

FREDERICK BATES
JOHN B. C. LUCAS
OTHO SHRADER.

AN ACT

Concerning divorce and alimony.

Causes for
which a di-
vorce may be
granted.

BE it enacted by the Legislature of the Territory of Louisiana, That where a marriage hath been heretofore or shall hereafter be contracted and celebrated between any two persons, and it shall be adjudged in the manner herein after mentioned, that either party at the time of the contract was and still is naturally impotent, or incapable of procreation, or that he or she hath knowingly entered into a second marriage, in violation of the previous vow he or she made to the former wife or husband whose marriage is still subsisting, or that either party hath committed adultery, or wilful and malicious desertion and absence without a reasonable cause for and during the term and space of four years, in every such case it shall and may be

Bryan

lawful for the innocent and injured person to obtain a divorce, not only from bed and board, but also from the bond of matrimony itself.

Sec. 2. *And be it further enacted*, That if any person hath or shall be injured in any of the ways above mentioned, the husband in his own proper person, or the wife by her next friend, may exhibit his or her petition or libel to the judges of the general court in term time, or to any one of the same judges in the vacation at least thirty days before the next term, setting forth therein the causes of his or her complaint together with an affidavit on oath or affirmation, taken before one of the judges of the said general court or before one of the judges or justices of the peace within any district in this territory where he or she resides that the facts stated in the said petition or libel are true to the best of his or her knowledge or belief, and that the same complaint is not made out of levity, or by collusion, fear or constraint between the said husband and wife, and for the mere purpose of being freed and separated from each other, but in sincerity and truth for the causes mentioned in the said petition or libel, and thereupon a summons may and shall issue from the said court, or from one of the judges thereof, if such petition or libel is exhibited in vacation, directed to the person so complained against commanding him or her to appear at the next general court to answer the said petition or libel, and upon due proof by the sheriff of the proper district

Manner of
applying for
divorces, and
to what court.

Summons to
be issued and
by whom.

at the return of the said process that a copy thereof was served personally on the said party, and the original shewn to him or her, that a copy thereof was left at his or her usual abode at least fifteen days before the day of the said return inclusive, the said court shall inquire into the circumstances of the complaint, in the presence of the parties or if either of them, will not attend and does not give a reasonable excuse to the court for his or her non-attendance, then *ex parte* by the examination of witnesses or other legal proof, and the said court at the request of either party shall cause any matter of fact that is affirmed by the one and denied by the other to be tried by a jury.

When the summons is returned, duly served, the court to proceed thereon: in presence of both parties if they appear—otherwise *ex parte*.
 Jury may be called, and in what cases.

Where respondent is returned by the sheriff no inhabitant of his district the said court shall order alias summons, etc.

Sec. 3. *And be it further enacted*, That the proper sheriff shall return that the person named in the said summons is no inhabitant of his district the said court shall award *alias* summons, and order the same to be published in some newspaper printed within this territory once a week for six weeks, but if there is no newspaper printed in the territory, then proclamation shall be made by the sheriff of the proper district on three several days during the sitting of the court of common pleas, in term time, at the court house for the party to appear as commanded by the summons, and at the return of such *alias* summons, due proof being made to the court of the publication thereof as before directed, the court shall hear and determine the said complaint in the same manner as is directed by the second section of this act.

On return of alias, in what manner court shall proceed

Sec. 4. *And be it further enacted,* That it shall be lawful for the general court, after hearing any cause commenced before them by virtue of this act, to determine the same as to law and justice shall appertain, by either admitting the petition or libel, or sentencing and decreeing a divorce and separation from the bonds of matrimony, or that the marriage is null and void agreeably to the prayer thereof, and the said court may award costs to the party in whose behalf the sentence or decree shall pass, or that each party shall pay his or her own costs, as to them shall appear to be reasonable and just. *Provided* that such dissolution of such marriage shall in no wise affect the legitimacy of the children thereof.

On petition for divorce the G. Court may dismiss the same.

or decree a divorce,

and may award costs,

Legitimacy of children not affected by divorce.

Sec. 5. *And be it further enacted,* That no person shall be entitled to a divorce from the bonds of matrimony by virtue of this act who has not resided within this territory one whole year previous to the filing of his or her petition or libel.

No person who has not resided in territory one year to be entitled to divorce,

Sec. 6. *And be it further enacted,* That if any person shall maliciously either abandon his family, or turn his wife out of doors, or by cruel and barbarous treatment endanger her life, or offer such indignities to her person as to render her condition intolerable and thereby force her to withdraw from his house or family, it shall and may be lawful for the general court upon complaint and due proof thereof in manner aforesaid, at the first or any subsequent term to grant the wife a divorce from bed and board. And in case the parties

Causes for which a divorce from bed and board may be decreed.

Where the

parties agree concerned should declare to the court that altho' facts in they respectively agree to be divorced from the first section mentioned are bed and board only although the facts are proved, divorce from bed and board shall be granted.

Court may order maintenance to the wife and children.

No order of the G. court to affect marriage contracts, etc.

proviso.

Sec 7. *And be it further enacted*, That in all cases in which the general court shall declare a divorce in pursuance of this act the said court shall and may take such order touching the care and maintenance of children (if any there be) of such marriage and also touching the maintenance of the wife or any allowance to be made to her, and the security to be given for the same, as from the circumstances of the parties and the nature of the case may be proper and sufficient, and application from either party may from time to time make at their discretion such alterations therein as may be necessary. *Provided* however, that any order that may be thus taken by the said general court shall not in any manner whatsoever impair or affect any of the rights that may appertain or which may have accrued or shall accrue by marriage contract, or by the laws or usages which may be actually in force in this territory in regard to married persons, but on the contrary such rights shall have their full force and effect from the time of divorce granted by the said general court in the same manner as if such marriage had been dissolved by the natural death of either of the parties.—Saving at the same time the case where by marriage contract any provision may have been made

shall be made in favour of either of the surviving parties, in which case the said clause shall be null and of no effect from the beginning.

The foregoing is hereby declared to be a Law for the territory of Louisiana, to take effect accordingly from and after the passage thereof.

In testimony whereof we, Frederick Bates, secretary of the territory of Louisiana, and exercising the government thereof, and John B. C. Lucas and Otho Shrader, judges, in and over the said territory, have hereunto set our hands, at the town of St. Louis, the thirteenth day of May, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States the thirty-first.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

Providing a summary mode to recover public records and papers illegally withheld.

BE it enacted by the Legislature of the Territory of Louisiana, That in all cases where, in consequence of a change in the judicial system, the death, resignation or removal from office of any officer having possession of the papers appertaining and belonging to their successors, Officers resigning, removed, etc. to deliver records, books, etc. to their successors

H

in office.

Penalty on failure—

how recovered, and appropriated.

After demand made of the records, etc. and refusal to deliver them, and affidavit thereof, judge of G. court, or com. pleas, may issue warrant to seize them—

to whom the

ing to a court or the clerk thereof, or public papers and records of any description appertaining to any public office either civil or military within this territory, that in such cases it shall be the duty of the person whose office is vacated, or who has been removed from office, or their legal representatives to deliver to the successor in office on demand all records, books and papers and appurtenances in any wise belonging to said office, under the penalty of forfeiting any sum not exceeding one thousand dollars, nor less than one hundred dollars on failure to deliver the same on demand, which fine shall be recovered in any court of record within this territory for the use of the said territory.

Sec. 2. *And be it further enacted*, That in case a demand shall be made by the legal existing officer, who has succeeded to the one whose office has been vacated, or who has been removed, of the person who has the possession of the papers thus appertaining to the said office, in the presence of two or more witnesses, if the person having possession of the records, books and papers shall refuse or neglect to deliver the same on such demand, it shall and may be lawful for any judge of the general court, or justice of the court of common pleas of the proper district, on the application and affidavit of the applicant on oath or affirmation, to issue his warrant directed to the sheriff or coroner of said district to seize and secure all the books, papers and records belonging to the said office, and deliver the same to the person who shall produce the

latest commission from the governor of the territory. same are to be delivered.

Sec. 3. *And be it further enacted,* That in order that summary and complete justice may be done, it shall and may be lawful for any person or persons who may conceive him or themselves aggrieved to apply to a judge of the general court, whose duty it shall be to award a writ of *mandamus* directed to all parties concerned to appear at the next term of the general court, in order that right and justice may effectually be done, Persons aggrieved thereby may have a writ of *mandamus*.

Sec. 4. *And be it further enacted;* That it shall be lawful for the officer executing the warrant as aforesaid to break open any doors, trunks, or places in which the records, books, and papers aforesaid may be concealed, and in case of resistance to arrest the person or persons who may resist his authority, and carry him or them before a judge or justice to be dealt with as disturbers of the peace; and the officer is hereby authorized to impress a sufficient number of persons to enable him to carry his warrant into effect in case he should deem it necessary. And any sheriff or coroner neglecting or refusing to perform the duties required of him by this act, shall upon conviction had in the proper court be liable to a fine not exceeding one thousand dollars, nor less than one hundred dollars, to be applied to the use of the district where such conviction is had. Officer executing the said warrant may break open doors, etc. to arrest persons resisting his authority, etc and call others to his aid. Sheriff or coroner not doing his duty to be fined— how appropriated.

The foregoing is hereby declared to be a law of the territory of Louisiana, and to force from its

passage take effect from and after the passage thereof.

In testimony whereof, we, Frederick Bates secretary of the territory of Louisiana, and exercising the government thereof, and John B. C. Lucas, Otho Shrader and John Coburn judges, in and over the said territory, have hereunto set our hands at the town of Saint Louis, the twenty third day of June, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States the thirty first.

(Signed)

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

JOHN COBURN.

AN ACT

Authorising the Governor to offer a reward for apprehending criminals in certain cases.

Governor
may offer re-
ward for ap-
prehending
criminals
in cases of
treason, mur-
der or other
capital
crimes.

BE it enacted by the Legislature of the Territory of Louisiana, That if any person charged with or convicted of treason against the United States, murder or other capital crimes, shall break prison, escape or flee from justice, and abscond and secret himself, that in such cases it shall be lawful for the governor, if he shall judge it necessary, to offer any reward not exceeding three hundred dollars for apprehending and delivering such person into the custody of such sheriff

or other officer as he may direct, and the person or persons so apprehending and delivering any such person as aforesaid and producing to the governor the sheriff's or jailor's receipt for the body, it shall be lawful for the governor to issue his warrant on the territorial treasurer for the payment thereof.

Reward to be paid out of territorial treasury on governor's warrant.

The foregoing is hereby declared to be a Law of the territory of Louisiana, to commence and be in force from and after the passage thereof.

This act in force from its passage.

In testimony whereof, we Frederick Bates, secretary of the territory of Louisiana, and exercising the government thereof, and John B. C. Lucas, Otho Shrader and John Coburn, judges, in and over the said territory, have hereunto set our hands, at the town of Saint Louis, the twenty-fifth day of June, in the year of our Lord one thousand eight hundred and seven, and of the independence of the United States of America the thirty-first.

(Signed)

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

JOHN COBURN.

AN ACT

To enable the governor to appoint notaries public, and defining their duties.

Governor to appoint one notary public in each district,

to reside at such place where common pleas is held—
to hold his office 5 years, unless convicted of misdemeanor in office.

Notary may administer oaths.

Persons swearing falsely before notary, shall be punished for perjury.

May receive proofs of writings relative to commerce, &c.

BE it enacted by the Legislature of the Territory of Louisiana, That the governor shall appoint and commission one person in each district of this territory, of known good character and abilities as notaries public for the territory of Louisiana, who shall reside at the place where the courts of common pleas are held respectively. And the said notaries whilst residing in such place or places shall hold their commissions during the term of five years, but may be removed from office upon a conviction had in the general court for a misdemeanor in office.

Sec. 2. The said notaries so commissioned and every of them shall have the power of administering oaths and affirmations according to law in all matters belonging or incident to the exercise of their notarial office. And all and every person or persons that shall be legally convicted of having wilfully and knowingly made or taken a false oath or affirmation before any notary or notaries in any matter or matters within his or their official duty shall suffer the pains and penalties of wilful and corrupt perjury.

Sec. 3. The said notaries and every of them shall have power to receive the proof or acknowledgement of all instruments of writing relating to commerce or navigation, and to receive and authenticate acknowledg-

ments of powers of attorney, and also to powers of attornies, &c.
make declarations and testify the truth thereof
under their seals of office concerning all mat-
ters by them done in virtue of their respec-
tive offices.

Sec. 4. Each of the said notaries shall keep
fair registers of all official acts by him done
in virtue of his office, and shall when there-
unto required give a certified copy of any re-
cord in his office unto any person or persons
applying for the same, such person paying the
legal fees therefor.

to keep re-
gister of his
official acts,
and give co-
pies.

Sec. 5. In case of the death, resignation or
disqualification or removal of any of the said
notaries public, his or their register and other
public papers shall be lodged within thirty
days next after such death, resignation, dis-
qualification or removal, in the office of the
recorder of deeds of the particular district
where he resided. who may bring and main-
tain actions of *trover* or *detinue* for the same,
and such registers or public papers shall not
in any case be liable to be seized, attached or
taken in execution for debt or for any de-
mand whatsoever.

In case of
death, etc. of
notary : his
register, and
papers where
to be lodged.

Register and
papers not li-
able on exe-
cution.

Sec. 6. Every such notary shall provide a
public notarial seal with which he shall au-
thenticate all his acts, instruments and attes-
tations, which seal shall have for legend, the
name, surname and office of the notary using
the same, and the place of his residence.

To have no-
tarial seal and
affix it to all
acts, &c.

Sec. 7. Every notary on his appointment
and before he enters upon the duties of his

Notary to
take an oath

of office. office, shall take and subscribe an oath or affirmation before any person duly authorized by the governor to administer oaths of office, that he shall and will well and faithfully perform the duties of his office, and also give bond himself in the sum of five hundred dollars, and two sureties in the sum of one hundred and fifty dollars each, conditioned for the faithful performance of the duties of his office, which bond together with his commission shall be recorded in the office of the recorder of deeds of the district for which such notary is appointed. The bond shall be filed with the secretary of the territory, and may be sued by any party or parties injured, and copies of such bond under the hand and seal of the said secretary of the territory, under the hand and seal of the recorder of deeds in whose office the originals are recorded shall be admitted as legal evidence in any suit or suits that shall be brought thereon against the obligors their heirs executors or administrators. *Provided always*, that no person shall recover any damage against such notary or his sureties, their heirs executors or administrators unless such suit be instituted within three years after the cause of action may have accrued.

form of the oath,

and give bond.

Bond and commission to be recorded in the recorder's office of the district.

Bond where to be lodged. parties injured may sue on it. copy sufficient evidence.

suit to be brought in 3 years.

Act in force from passage.

The foregoing is hereby declared to be the Law of the territory of Louisiana, to take effect from and after the passage thereof.

In testimony whereof, we Frederick Bates, secretary of the territory of Louisiana, and exercising the government thereof, and John B. C. Lucas, Otho Shrader, and John Coburn

Judges in and over the said territory, have hereunto set our hands at the town of Saint Louis, the twenty-fifth day of June, in the year of our Lord one thousand eight hundred and seven, and of the independence of the United States of America the thirty-first.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

JNO. COBURN.

AN ACT

To enable persons held in slavery to sue for their freedom.

BE it enacted by the Legislature of the Territory of Louisiana, That it shall be lawful for any person held in slavery to petition the general court or any court of common pleas, praying that such person may be permitted to sue as a poor person, and stating the grounds on which the claim to freedom is founded. If in the opinion of the court the petition contains sufficient matter to authorise their interference the court shall award the necessary process to bring the cause before them.

Gen. Court and com. pls. may permit certain persons held in slavery to sue as poor persons.

Sec. 2. The court to whom application is thus made may direct an action of assault and battery and false imprisonment, to be instituted in the name of the person claiming freedom against the person who claims the

Manner of instituting such suits.

Proceedings
therein.

petitioner as a slave, to be conducted as far of the like nature between other persons. And the court shall assign the petitioner counsel, and if they deem it proper shall make order directing the defendant or defendants to permit the petitioner to have a reasonable liberty of attending his counsel and the court when occasion may require it, and that the petitioner shall not be taken nor removed out of the jurisdiction of the court, nor be subjected to any severity because of his or her application for freedom.

Order of
court about
to be violated
etc. herein,
how court or
judge shall
proceed.

Sec. 3. If the court or any judge thereof in vacation shall have reason to believe that the above order has been or is about to be violated, in such case the said court or judge thereof in vacation may require the person of the petitioner be brought before him or them by writ of habeas corpus, and shall cause the defendant or defendants, his, her, or their agent, to enter into recognizance with sufficient security conditioned as recited in the above order, or in case of refusal to direct the sheriff of the district to take possession of the petitioner, and hire him or her to the best advantage, which hire shall be appropriated either to the petitioner or to the defendant or defendants, as the event of the suit may justify. And the person hiring the petitioner shall enter into recognizance with sufficient security conditioned as the above order directs.

On trial court
may instruct
the jury,

Sec. 4. The court before whom such suit may be tried may instruct the jury that the weight of proof lies on the petitioner, but

have regard not only to the written evidences of the claim to freedom but to such other proofs either at law or in equity the very right and justice of the case may require.—

And the court on a verdict in favor of the petitioner may pronounce a judgment of liberation from the defendant or defendants and all persons claiming by, from, or under him, her or them.

and in certain cases pronounce judgment of liberation.

Sec. 5. Suits instituted in any court of common pleas under this law may be removed into the general court before judgment, or if judgment is given in any such cause in the court of common pleas, appeal or writ of error shall lie to the general court as in other cases.

Suits under this act may be removed to Gen. court.

The foregoing is hereby declared to be a Law of the territory of Louisiana, to take effect and be in force from and after the passage thereof.

In testimony whereof, we, Frederick Bates secretary of the territory of Louisiana, and exercising the government thereof, and John B. C. Lucas, Otho Shrader and John Coburn judges, in and over the said territory, have hereunto set our hands at the town of Saint Louis, the twenty seventh day of June, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States of America the thirty-first.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

JNO. COBURN.

AN ACT

*Regulating the proceedings on writs of
Habeas Corpus.*

Certain persons detained for criminal matter may apply for writs of habeas corpus to judge of C. court or com. pleas.

who shall
award the
same.

to whom to
be directed
&c.

BE it enacted by the Legislature of the Territory of Louisiana, That if a person shall be or stand committed or detained for any criminal or supposed criminal matter, unless for treason or felony the species whereof is plainly and fully set forth in the warrant of commitment, in vacation time and out of term, it shall and may be lawful and for the person so committed or detained or any one on his or her behalf, to appeal or complain to any judge of the general court or of the court of common pleas for the district within which the person is so committed or detained, and such judge upon view of the copy or copies of the warrant or warrants of commitment, or otherwise upon oath or affirmation legally made that such copy or copies were denied to be given by the person or persons in whose custody the prisoner is detained, is hereby authorized and required upon request made in writing by such prisoner, or any person on his or her behalf, to award and grant a writ of *habeas corpus* under the hand of the judge, to be directed to the person or persons in whose custody the prisoner is detained, returnable immediately before the said judge. And to the intent that no officer, sheriff, gaoler, keeper, or other person to whom such writ shall be directed may pretend ignorance thereof, every such

writ shall be made in this manner, "By act of the legislature 1807." And whenever the said writ shall by any person be served upon the sheriff, gaoler, keeper or other person whatsoever to whom the same shall be directed, or being brought to him or being left with any of his under officers or deputies at the gaol or place where the prisoner is detained, he or some of his under officers or deputies shall within three days after the service thereof as aforesaid, upon payment or tender of the charges of bringing the said prisoner to be ascertained by the judge who awarded the writ, and thereon endorsed not exceeding ten cents per mile, and upon sufficient security given to pay the charges of carrying him back if he shall be remanded, make return of such writ, and bring or cause to be brought the body of the prisoner before the judge who granted the writ, and in case of his absence before any other of the judges aforesaid. And shall then likewise specially and fully certify the true cause or causes of the commitment and detainer of the said prisoner and when he was committed, unless the commitment be in any place beyond the distance of twenty miles from the place where such judge shall be residing and if beyond the distance of twenty miles and not above one hundred miles then within ten days and if beyond the distance of one hundred miles then within twenty days: and thereupon the judge before whom the prisoner shall be brought shall within two days discharge the prisoner from imprisonment, taking his or her recognizance with one or more sureties in any sum according to

how such writs to be made.

within what time to be returned; and body brought before judge.

cause of commitment &c to be certified to the judge,

who may in 2 days discharge the prisoner taking recognizance—

and certify
same into
proper court.

Return may
be amended.

and not to be
conclusive.

Habeas cor-
pus may be
awarded in
term time.

Prisoners not
tried within

his discretion, having regard to the circumstances of the prisoner and the nature of the offence, for his or her appearance at the next court of oyer and terminer, general jail delivery or quarter sessions of or for the district where the offence was committed, or in such other court where it may be properly cognizable as the case may require, and then shall certify the said writ with the return thereof and the recognizance aforesaid into the court where such appearance is to be made; unless it shall appear to the said judge that the party so committed is detained upon legal process, order, a warrant for such matter or offences for which by the law said prisoner is not bailable. And the said judge may, according to the intent and meaning of this act, be enabled by investigating the truth of the circumstances of the case to determine whether according to law the said prisoner ought to be bailed, remanded, or discharged, the return may be amended before or after it is filed by leave of the said judge, and all suggestions made against it, that thereby material facts may be ascertained.

Sec. 2. In term time it shall and may be lawful for any prisoner as aforesaid in manner aforesaid to move for and obtain his or her *habeas corpus* out of the general court or the court of common pleas for the district where he or she is imprisoned, whereupon proceedings shall be had as aforesaid.

Sec. 3. If any person shall be committed and shall not be tried in the next term, self

tion of oyer and terminer, general jail delivery, quarter sessions or other court where the offence is properly cognizable, or within five calendar months after such commitment, it shall and may be lawful for any judge of the general court, or for the court of common pleas of the district where the said prisoner is confined, and they are hereby required to set at liberty the said prisoner upon bail, unless it shall appear, to the said judge, or to the said court upon oath or affirmation that the witnesses for the United States, mentioning their names, could not be then produced. And if such prisoner shall not be indicted and tried the second term, session or court, or within nine calendar months after his or her commitment, unless the delay happen on the application or with the consent of the defendant, or upon trial shall be acquitted, he or she shall be discharged from imprisonment.

certain time
to be bailed,
unless, &c.

cases in
which prisoner
shall be
discharged.

Sec. 4. Provided that nothing in this act shall extend to discharge out of prison any person guilty or charged with treason against the United States, or treason, felony, or other high misdemeanor in any other state or territory who by the constitution and laws of the United States ought to be delivered up to the executive power of such state or territory. And provided also that nothing in this act shall extend to discharge out of prison any person charged with debt or other action, or with process in any civil cause, but that after discharge for such criminal or supposed criminal matter, he or she shall be kept in custody according to law for such other suit.

Certain cases
to which this
act shall not
extend.

No person to
be removed
out of district
within 15
days of
term of court
etc.

Sec. 5. That no person may avoid his or her trial no person shall be removed upon any *habeas corpus* granted in pursuance of this act out of the district in which he or she is confined, and where the offence with which he or she stands charged is cognizable within fifteen days next preceding the term, sessions of oyer and terminer, quarter sessions or other court proper to try same.

Penalty on
judge's refusing the writ
of *habeas corpus*.

Sec. 6. If any judge aforesaid being complained to as aforesaid upon view of the copy or copies of the warrant or warrants of the commitment or detainer or upon oath or affirmation made that such copy or copies were denied as aforesaid, shall refuse or neglect to award any writ of *habeas corpus* by this act required to be granted he shall forfeit to the prisoner or party grieved a sum not exceeding one thousand dollars to be recovered by the said prisoner or party grieved his or her executors or administrators against such offender, his executors or administrators by action of debt in any court of record.

Officers failing to make
return, and
bring the body,
guilty of
contempt.

Sec. 7. If any officer, sheriff, gaoler, keeper or other person to whom any such writ shall be directed as aforesaid, or any of his under officers or deputies shall neglect or refuse to make the returns aforesaid or to bring the body of the prisoner according to the command of the said writ within the respective times aforesaid, all and every such officer, sheriff gaoler, keeper or other person, under sheriff or deputy shall be guilty of a contempt to the judge who issued the said writ—where

upon the said judge may and shall issue a writ of attachment against such officer, sheriff, gaoler, keeper or other person, under sheriff or deputy and cause him or them to be committed to the jail of the district, there to remain without bail or mainprize until he or they shall obey the said writ; and such officer, sheriff, gaoler, keeper or other person, under sheriff or deputy shall also forfeit to the prisoner or party aggrieved a sum not exceeding five hundred dollars, and shall and is hereby made incapable of holding or executing his said office. The said forfeiture to be recovered by the prisoner or party grieved, his executors or administrators in manner aforesaid.

Sec. 8. If any officer, sheriff, gaoler, keeper or other person or any of his under officers or deputies upon demand by the prisoner or some person in his or her behalf shall refuse to deliver, or within six hours after such demand shall not deliver to the prisoner or person so demanding the same, without fee or reward, a true copy or copies of the warrant or warrants of commitment and detainer of said prisoner, which are hereby required to be delivered, all and every such officer, sheriff, gaoler, keeper or other person, under officer or deputy so offending shall forfeit to the prisoner or party grieved a sum not exceeding three hundred dollars to be recovered by the prisoner or party grieved, his or her executors or administrators in manner aforesaid.

Sec. 9. No person who shall be delivered or set at large upon an *habeas corpus* shall at

Hæc corpus
not to be a-
gain impris-
oned for the
same cause,
unless, etc.

penalty on
offenders
their aiders,
etc.

any time thereafter be again committed or imprisoned for the same offence by any person or persons whatsoever, other than by the legal order and process of such court where- in he or she shall be bound by recognizance to appear, or other court having jurisdiction of the cause. And if any other person or persons shall knowingly contrary to this act re- commit or imprison, or knowingly procure or cause to be recommitted or imprisoned for the same offence or supposed offence any person delivered or set at large as aforesaid, or be knowingly aiding or assisting therein, then he or they shall forfeit to the prisoner or party grieved any pretence of variation in the warrant or warrants of commitment not- withstanding, a sum not exceeding one thou- sand dollars to be recovered by the prisoner or party grieved, his or her executors or ad- ministrators in manner aforesaid.

person com-
mitted to one
prison, not to
be removed
to any other,
unless, etc.

Sec. 10. Any person being committed to any prison, or in the custody of any officer, sheriff, gaoler, keeper or other person or his under officer or deputy, for any criminal or supposed criminal matter shall not be remoy- ed from the said prison or custody into any other prison or custody unless it be by *hæc corpus* or some other legal writ, or where the prisoner shall be delivered to the constable or other inferior officer to be carried to some common gaol; or shall be removed from one place to another within the district in order to his discharge or trial, in due course of law, or in case of sudden fire or infection or other necessity, or where the prisoner in pursuance

of a law of the United States may be claimed or demanded by the executive of any of the United States or territories. And if any person or persons shall after such commitment as afore said, make out, sign or countersign any warrant or warrants for such removal except as before excepted, then he or they shall forfeit to the prisoner or party aggrieved a sum not exceeding three hundred dollars, to be recovered by the prisoner or party grieved in manner afore said.

penalty on
offenders.

Sec. 11. All the provisions herein before made for the awarding and granting writs of *habeas corpus* and proceedings thereon in case of commitment or detainer for any criminal or supposed criminal matter shall in like manner extend to all cases, where any person not being committed or detained for any criminal or supposed criminal matter shall be confined or restrained of his or her liberty under any colour or pretence whatsoever, and upon oath or affirmation made by such persons so confined or restrained, or by any other person in his or her behalf, of any actual confinement or restraint or that such confinement or restraint to the best of the knowledge or belief of the person so applying is not by virtue of any commitment or detainer for any criminal or supposed criminal matter, an *habeas corpus* directed to the person or persons so confining or restraining the party as afore said shall be awarded and granted in the same manner and under the same penalties to be recovered from the same persons as is herein before directed, and the court or judge

Provisions of
this act to ex-
tend to cer-
tain other
cases, where
party is con-
fined or re-
strained not
for criminal
matter.

before whom the party so confined or restrained shall be brought, shall after the return made, proceed in the same manner as is herein before prescribed to examine into the facts relating to the same, and into the cause of such confinement or restraint, and thereupon either bail, remand, or discharge the party so brought as to justice shall appertain.

Habeas corpus directed to private individual how to be served.

person to make return and bring the body as before provided—

on failure guilty of contempt,

Sec. 12, Whensoever any writ of *habeas corpus* awarded and granted either in term or vacation time for any person so confined or restrained without a commitment for any criminal or supposed criminal matter, shall be served upon the person so confining or restraining such party, by being brought to such person or persons or by being left at the place where the party shall be so confined or restrained, the person or persons so confining or restraining such party shall make return of such writ, and bring or cause to be brought the body of such party according to the command thereof within the respective times limited and under the provisions herein before prescribed, and every such person refusing or neglecting so to make return of the said writ, or to bring or cause to be brought the body of the party according to the command thereof, within the respective times limited and under the provisions herein before prescribed, shall be guilty of a contempt to the court or to the judge who may have issued the said writ. Whereupon the said court, if the writ has been issued in term time, or the judge, if the same has been issued by him in vacation, may

and shall issue a writ of attachment against the person in whose custody the party shall or may be, and cause him, her, or them to be committed to the jail of the district there to remain without bail or mainprize until he, she, or they shall obey the said writ. And such person in whose custody he or she shall or may be, and by whom the said party is thus restrained or confined, shall also forfeit to the party aggrieved a sum not exceeding five hundred dollars, to be recovered in manner aforesaid.

to be attached and committed to jail.

and pay penalty to party

Sec. 13. The right of action for the recovery of any penalty provided for by this act, shall not cease by the death of either of the parties, or both of them, but such penalties may be sued for and recovered by the executors or administrators of the party aggrieved, against the offender his executors or administrators: *Provided* that no person shall be sued, impleaded or troubled for any offence unless such person be sued or impleaded for the same within two years after the time wherein the said offence shall have been committed, in case the party grieved shall not then be in prison, confined, or restrained as aforesaid then within two years after the decease of the person imprisoned, or so confined or restrained or his or her delivery out of prison or from such confinement or restraint.

Death of parties not to bar actions under this act.

if brought within 2 years, unless etc.

Sec. 14. In or upon any action or suit for any offence against this act the defendant or defendants may plead the general issue and give the special matter in evidence.

Defd. not required to plead specially.

Persons recognized and not indicted etc. as in sec 3. to be discharged.

Sec. 15. The provisions of the third section of this act shall also extend to any person who being charged with any offence of a criminal nature and held under recognizance of bail for his or her appearance, and if such person shall not be indicted and tried within the times respectively provided for in this section with respect to persons in actual confinement, it shall and may be lawful for the court before whom such recognizance is made returnable to discharge such person.

Act in force from passage.

The foregoing is hereby declared to be a Law of the territory of Louisiana, to take effect and be in force from and after the passage thereof.

In testimony whereof, we, Frederick Bates, secretary of the territory of Louisiana, and exercising the government thereof, and John B. C. Lucas, Otho Shrader and John Coburn judges, in and over the said territory, have hereunto set our hands at the town of Saint Louis, the twenty seventh day of June, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States of America the thirty first.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRAIDER.

JNO. COBURN.

AN ACT

Establishing the office of Coroner; and defining the powers and duties appertaining to the same.

BE it enacted by the Legislature of the Territory of Louisiana, That it shall be the duty of the governor to commission in every district in this territory now established or hereafter to be established one proper person as Coroner, whose duty it shall be to serve all writs and process when the office of the sheriff of the district shall be vacant, or when the sheriff shall be party to the suit, or when it shall be proven to the satisfaction of the court who grant such writs or process that the sheriff is interested in the suit, related to either party, or prejudiced against any party to such suit, and shall return jurors for the trial of such causes. It shall also be the duty of such coroners to take inquests of violent deaths and casual deaths happening within their respective districts: and shall before they enter upon the duties of their respective offices be severally sworn or affirmed to the faithful discharge thereof and give security in the same manner as sheriffs now are or hereafter shall be required by law to do.

Gov. to appoint Coroner in each district.

his duties and powers.

shall take oath of office, and give bond.

Sec. 2. Every coroner as soon as he shall be notified of the dead body of any person supposed to have come to his or her death by violence, or casually found or lying within his district, shall make out his warrant direc-

To issue warrant for jury of inquest.

to whom directed.	ted to the constable of the township where the dead body is found or lying, requiring him forthwith to summon a jury of good and lawful men, householders of the same township, not less than eighteen in all (so that twelve at least may be present) to appear before such coroner at the time and place in his warrant expressed, and to enquire, upon a view of the body of the person then lying dead, how and in what manner and by whom
number of jury, when to appear.	he or she came by his or her death; and every such constable to whom such warrant shall be directed and delivered shall forthwith execute the same, and shall repair to the place where the dead body is, at the time mentioned, and make return of the warrant with his proceedings thereon unto the coroner who granted the same. Every constable failing to do so to be fined.
Duty of constable to return warrant, and attend personally :	Every constable failing of executing such warrant or of returning the same as aforesaid, shall forfeit and pay the sum of eight dollars, and every person summoned as a juror as aforesaid that shall fail to appear or make a reasonable excuse to the coroner for his non-attendance within five days after the time appointed in the warrant, shall forfeit and pay the sum of five dollars, which fines shall be levied and collected by a warrant of any justice of the peace and to be applied to the use of the district.
fine on jurors for not appeared—unless excused by coroner.	
Fines how recoverable and appropriated.	

Sec. 3. The coroner shall administer oath or affirmation to at least twelve of the jurors who shall appear, to the foreman first the following form. " You solemnly swear (or affirm) that you will diligently enquire and true presentment make, how, in what

manner and by whom A.B. who here lies dead came to his death. And you shall deliver to me, coroner for this district, a true inquest thereof according to such evidence as shall be laid before you and according to your knowledge." The other jurors shall swear or affirm in the following form : " Such Oath of other jurors.
oath (or affirmation, as your foreman hath taken, you and each of you shall well and truly observe and keep."

Sec. 4. The jurors being sworn the coroner shall give them a charge upon their oaths to declare of the death of the person, whether he or she died of felony, or mischance or accident, and if of felony who were principals and who were accessaries, with what instrument he or she was struck or wounded, and so of all prevailing circumstances which may come by presumption, and if by mischance or accident whether by the act of man, and whether by hurt, fall, stroke, drowning, or otherwise.—Also to enquire of the persons who (if any) were present, the finder of the body, his or her relations and neighbours, whether he or she was killed in the same place where the body was found, and if elsewhere by whom and how the body was brought thence, and of all other circumstances relating to said death. And if he or she died of his or her own act, then to enquire of the manner, means or instrument, and of all circumstances concerning it. Coroner to give a charge to jurors.
form of charge.

Sec. 5. The jury being charged shall remain together and proclamation shall be Proclamation for evidence when

to be made, and how. made for any person who can give evidence to draw near and they shall be heard.

Coroner to issue warrant for witnesses, Sec. 6. Every coroner shall be empowered to issue his warrant for witnesses commanding them to come before him to be examined, and to declare their knowledge concerning the matter in question, he shall administer to them an oath or affirmation in form following: "You do swear (or affirm) form of oath. that the evidence you shall give to this inquest concerning the death of A. B. here lying dead shall be the truth the whole truth and nothing but the truth."

Evidence to be in writing and signed by witnesses. Sec. 7. The evidence of such witnesses shall be taken down in writing and subscribed by them. And if it relate to the trial of any person concerned in the death, then the coroner shall bind such witnesses by recognizance in a reasonable sum for their appearance at the next court of oyer and terminer or quarter sessions to be holden within the same district; there to give evidence accordingly, and commit to the common jail of the district any witness or witnesses refusing to enter into such recognizance, and shall return to the same court the inquisition, written evidence and recognizance by him taken. And the jury having viewed the body, heard the evidence, and made all the inquiry in their power, shall draw up and deliver to the coroner their verdict upon the death under consideration in writing under their hands and the same shall be signed by the coroner.

Coroner to bind witnesses in recognizance in certain cases.

and commit in case of refusal.

Inquest, &c. to be returned.

verdict of jury to be in writing, and delivered to and signed by coroner.

Coroner in Sec. 8. Upon an inquisition found before

any coroner of the death of any person by the felony or misfortune of another, he shall speedily inform one or more of the justices or judges of the same district or one or more judges of the general court, whose duty it shall be forthwith to issue their process for the apprehension, examining and securing for trial of such person or persons killing or being any way instrumental to the death.

certain cases

to give information to justices, &c.

who shall thereupon issue process, &c.

Sec. 9. And if the coroner by sickness or other causes is not able to take the inquest provided for by this act, or if the coroner resides at a greater distance than forty miles from the place where the dead body is found lying, any justice of the peace, or judge of the court of common pleas of the proper district is hereby authorized and required to take the inquest, and perform all and singular the duties hereby enjoined on the coroner.

In what cases justice or judge is to take inquest,

and perform the duties of coroner.

And if the constable of the proper township is unable to execute the duties required of him by this act, the coroner, justice or judge may direct his warrant to any other household of the township, who shall perform the duties of a constable under the same penalties and to be entitled to the same fees as a constable.

Warrant to be directed to household, if constable cannot execute the same, penalty on household for failure—his fees.

The foregoing is hereby declared to be a Law for the territory of Louisiana, to take effect and be in force from and after the passage thereof.

Act in force from its passage.

In testimony whereof we, Frederick Bates, secretary of the territory of Louisiana, and exercising the government thereof, and John B. C. Lucas and Otho Shrader, judges, in

and over the said territory, have hereunto set our hands, at the town of Saint Louis, the third day of July, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States the thirty-first,

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

Establishing Courts of Justice, and regulating Judicial proceedings.

Gov. to appoint not less than 3 nor more than 5 persons as judges of com. pleas, and Cr. sessions in each district.
2 judges may hold court.

to hold commission 4 years, unless &c.

BE it enacted by the Legislature of the Territory of Louisiana, That there shall be commissioned by the Governor in each district now erected or hereafter to be erected, not less than three nor more than five respectable inhabitants as judges of the courts of common pleas and courts of quarter sessions of the peace, any two of whom shall have power and authority to hold the said courts of common pleas and courts of quarter sessions of the peace in their respective districts according to law. The said judges shall hold their commissions for four years, but may be removed by the governor upon conviction in the general court for a misdemeanor in office.

Sec. 2. The said judges or any two of them

shall annually hold in their respective districts three courts at the same places where the said courts are now held, to wit, in the district of Saint Charles on the last Mondays in February, June and October, in the district of Saint Louis on the first Mondays in March, July and November; in the district of Saint Genevieve on the second Mondays in March, July and November; in the district of Cape Girardeau on the third Mondays in March, July and November; in the district of New-Madrid on the fourth Mondays of March, July and November, yearly and every year. And when any new district may hereafter be erected by the governor it shall be his duty to direct by proclamation the place and times of holding the said courts in such districts on the Monday following the court in the district of New-Madrid, and for every other district erected on the Monday following the court erected last before.

To hold 3 terms annually in each district.
In St. Charles at what time.
in St. Louis,
in St. Genevieve,
in Cape Girardeau,
in New-Madrid,
and in new districts at what times.

Sec. 3. The judges of the general court, the judges of the courts of common pleas, and the justices of the peace in their respective districts, shall have full power and authority to issue processes against and to take all manner of recognizances of persons charged or committed for any offences against the laws of the United States or of this territory, and to bind to the peace and good behaviour, which said recognizances shall be made to the United States, and certified to the court of oyer and terminer or quarter sessions of the peace of the proper district, or if the offence be against the laws of the

Judges of G. court, and com. pleas, and justices to award process in criminal cases, and take recognizances;
to be made payable to U. S.
to what court to be certified

Recognizances forfeited in what court to be sued.

Fines, &c. to be taxed truly, &c.

to be levied on process directed to sheriff, &c.

Qr. sessions to be held the 3 first days of each term,

to issue process into any district of the territory.

Judges compensation,

United States and cognizable only in the general court, such recognizances are to be certified to the general court without concealment, detaining or embezzling the same, and when any person shall forfeit his or their recognizance of peace, good behaviour or appearance for any cause whatsoever, the recognizance shall be sued for and judgment given in the court of common pleas for the district, or in the general court if the recognizance has been certified to that court. All fines and amercements which shall be laid before the general court, quarter sessions of the peace or common pleas shall be taxed and set duly and truly according to the nature of the offence without partiality or exception, and shall be levied upon proper process awarded by the said courts, directed to the sheriff and paid to the uses for which they are or shall be appropriated. And the said courts of quarter sessions of the peace shall be held in each district during the three first days of every term or session.

Sec. 4. The courts of quarter sessions in each district shall have power to issue the process for the apprehension of persons indicted before them for any criminal offence and subpoenas and other process for summoning witnesses into any district of this territory.

Sec. 5. Each of the judges commissioned by this act shall receive a compensation of three dollars per day for every day they or either of them are attending the said court of common pleas, quarter sessions, or courts

over and terminer in their respective districts how paid,
 to be paid out of the district treasury upon
 producing and filing with such treasurer a on certificate
 certificate from the clerk of said courts stat- of clerk of
 ing the number of days each judge has been court.
 attending as aforesaid.

Sec. 6. There shall be raised upon every Writ, exe-
 original writ and execution issued out of the cutions, &c.
 common pleas, and upon every conviction taxed in com-
 by verdict or confession had in the court of mon pleas
 quarter sessions, a tax of fifty cents. It shall and quarter
 be the duty of the clerk of the respective sessions,
 courts to receive for every original writ from when and to
 the person applying for the same the said tax whom to be
 of fifty cents at the time the writ issues.— paid.
Provided that the tax shall be repaid him like
 other costs if the plaintiff recovers a judg-
 ment. Upon every execution and every bill
 of costs on a conviction in a criminal case
 the clerk shall charge the said tax of fifty
 cents, to be collected by the sheriff like
 other costs. And it shall be the duty of the
 clerk or sheriff to pay every six months to
 the district treasurer the taxes so collected
 by them.—And during the sitting of the
 court of common pleas at the first term in
 every year, it shall be the duty of the court
 to appoint one of the judges of the said court
 and one of the district commissioners to ex-
 amine the docket in the clerk's office, toge-
 ther with the accounts of the district treasur-
 er of money received by him for the afore-
 said taxes, who shall forthwith make a report
 to the court. And if it shall appear by their
 report that a balance is remaining in the

Duty of clerk
 sheriff and
 district trea-
 surer herein.

Judgment to

be entered
against, clk.
or sheriff for
balance of
taxes due.

hands of the clerk or sheriff, which they have or ought to have collected, the court shall upon ten days notice being given to such officer enter a judgment against such delinquent, and award execution as in cases of debt. It shall be the duty of the several district treasurers to forward at the end of every year to the governor a statement of moneys paid by them to the judges for their attendance, and of those received by them on account of the aforesaid taxes, which statement shall be laid before the legislature at the next session.

Suit not to be
removed to
gen. court by
habeas corpus,
or certiorari,
unless,
&c.

Sec. 7. No indictment or plea depending cognizable in the courts of common pleas at quarter sessions of the respective districts shall be removed by habeas corpus or certiorari to the general court, before trial and final judgment therein, except such cases as are hereafter excepted. If any person shall feel himself or herself aggrieved by any final decision or judgment given in any of the courts of common pleas in any cause wherein the matter in dispute exceeds, exclusive of costs, the sum or value of one hundred dollars, it shall be lawful for such person at any time after term in which judgment is given to enter his or her appeal to the general court, provided that no appeal shall be granted to any defendant in actions of debt or in actions upon the case for note, bill, book account, or assumpsit, unless the defendant or his agent shall make affidavit or affirmation stating that he does not appeal for the purpose of delay or vexation, but that he believes himself aggrieved.

Appeals may
be had to the
gen. court
in certain
cases—

grieved by the judgment of the inferior court. It shall be the duty of the courts of common pleas to require of the party appealing, if plaintiff a recognizance with one or more sureties in a sum sufficient to cover the costs in the inferior court and the costs of such appeal, and if defendant a recognizance with one or more sureties in a sum sufficient to cover the amount for which judgment has been given together with the costs that have accrued or that may accrue by such appeal, conditioned that the appellant shall pay the costs if plaintiff, or the debt or damages and costs if defendant, in case the judgment of the inferior court shall be confirmed by the general court; and such recognizance being offered and given and the appeal entered on record the said court shall not proceed any further in such cause. It shall be the duty of the party appealing to demand from the clerk a true copy of all the proceedings in such cause and to enter the same with the clerk of the general court on or before the third day of the next succeeding term of the general court, and if the party shall neglect so to do it shall and lawful for the adverse party producing a certificate from the clerk of the court below that an appeal has been entered and a recognizance given as aforesaid to move the court that the said judgment may stand confirmed. Whereupon the general court unless satisfactory reasons for having neglected to enter the aforesaid appeal be shewn shall confirm the judgment of the court below, and cause an endorsement thereof to

party appealing to enter into recognizance,

condition of the same,

appeal to stay proceedings in com. pleas.

appellant to enter his appeal with clerk of general court.

on failure adverse party may move for confirmation of judgment.

G. court may confirm judgment,

and certify
same to clk.
below—who
shall issue
execution.

when appeal
is entered
how the G.
court to pro-
ceed.

be made on the aforesaid certificate, which certificate and endorsement being filed with the clerk of the inferior court, it shall be the duty of such clerk to enter a judgment on the recognizance and to issue execution for the amount of debt, damages and costs as the case may be, for which judgment has been given in the inferior court, together with the fees of the officers in the general court. And when an appeal as aforesaid shall have been duly entered in the general court, it shall be the duty of the judges to examine the record and to award a new trial, reverse or affirm the judgment of the court below or give such judgment as the court below ought to have given, as to them may appear according to justice. And the general court may order the record aforesaid with their decision and determination thereon written and duly certified to be remitted to the said inferior court, on payment of the fees incurred in the said general court, and the same decision and determination shall be duly carried into execution by such inferior court, or the general court may award execution to carry into effect its decision and determination.

civil cases in
com. pleas of
the value of
100 dollars—
and eject-
ments may
be removed
to G. Court
in certain
cases.

Sec. 8. In civil cases where the sum in dispute shall exceed the sum of one hundred dollars, and in cases of ejectment for the recovery of lands and tenements where it shall be made to appear to the satisfaction of one of the judges of the general court, that a fair trial cannot be had in the district where such case is pending, or that the point on which the cause will probably be determined is

new or difficult, or that one or more of the judges of the inferior court or the sheriff of the district are interested or prejudiced, it shall and may be lawful for the judge of the general court to issue a writ of certiorari or habeas corpus under his hand and seal, or to allow such writ to remove such cause into the general court. *Provided always*, that no civil cause shall be removed by certiorari or habeas corpus except during the term to which the original writ was returnable or to the next succeeding term, and if a writ of certiorari or habeas corpus shall be presented to any subsequent term the inferior court shall take no notice thereof but proceed to trial and final judgment.

by whom
writ to be al-
lowed.

certiorari or
habeas corp.
presented af-
ter 2d term
not to be
obeyed.

Sec. 9. When the testimony of any person shall be necessary in any civil cause depending in the respective courts of record in this territory who live at a greater distance from the place of trial than sixty miles, or is about to go out of the district or territory and to a greater distance from the place of trial than aforesaid before the time of trial, or is ancient or very infirm, or where the claim or defence of any party, or a material part thereof shall depend upon a single witness, the deposition of such person may be taken upon a rule of such court, to be entered either on motion during the sitting of the court or in vacation with the clerk, and in the latter case to be taken *de bene esse*, before any judge or justice of the peace of this territory, or before any judge or justice of the peace of any of the United States or territories.—

Depositions
of witnesses
may be taken
in certain ca-
ses.

notice to be
given of time
and place of
taking same
to adverse
party—
or his atty.
in certain ca-
ses.

Dedimus
with interro-
gatories may
be granted
by courts,

and deposi-
tions to per-
petuate tes-
timony.

Witness
summoned,
not attending
may be at-
tached,

and fined,

and liable to
pay damages
unless, &c.

Provided that a copy of such rule together with a notice of the time and place of taking such deposition be first served on the adverse party, if such party resides in this territory, or his attorney on record if the party does not reside in this territory, or in case neither the party nor his attorney resides in this territory the same notification shall be put up in the clerk's office of the proper district, such notification to be served as aforesaid not less than three days before the taking of such deposition, and allowing moreover one day Sundays inclusive, for every twenty miles travel. The said court shall also have power to grant commissions to take depositions upon interrogatories to such commission annexed whenever it may be necessary, to prevent a failure or delay of justice. And the general court shall have power upon application to grant commissions to take depositions in *perpetuam rei memoriam* in any matter cognizable in any court of this territory according to the usages in chancery.

Sec. 10. Any person summoned as a witness at a court, or before commissioners, referees, or other persons appointed under the authority of a court to take his deposition or testimony, and failing to attend, not having a reasonable excuse, may be compelled by attachment to appear, and shall be fined by the court issuing the *subpoena*, after giving the party ten days previous notice, in any sum not exceeding ten dollars. He shall likewise be liable to the action of the party for damages sustained by his non-attendance. But if

his inability be shewn to the court, at the time he ought to have attended, or at the next succeeding court, no fine or action shall be incurred. Any person so summoned and attending in any of the before mentioned cases, who shall refuse to give evidence on oath or affirmation, as the case may be, shall be committed to prison by the court or other person authorised to take his deposition, or testimony, there to remain without bail or privilege until he shall give such evidence. And witnesses shall be privileged from arrests in all cases except treason, felony, or breach of the peace, during their attendance on any court, or other place where their attendance is required by *subpœna*, and in coming and returning from thence, allowing one day for every twenty miles from their abode.—And every person who shall cause a witness to be arrested knowing him to be attending as such upon a *subpœna*, his suit shall be abated and he moreover fined at the discretion of the court from which the *subpœna* issued, after giving the party ten days previous notice, in any sum not exceeding twenty dollars. In all cases where witnesses are required to attend as aforesaid, a summons shall be issued by the clerk of the court at the request of either party interested, or of the commissioners or referees, acting under the authority of any such court, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned; and any *subpœna* or process to require or compel the attendance of a witness

refusing to
give testimony,
etc. to be
imprisoned.

privileged
from arrests;

penalty for
arresting
witness, etc.

Summons by
whom to be
issued, etc.

may be served in any district. may be served and executed in the district wherein the witness may be found.

Sec. 11. When any suit shall be dependent on a party to a suit dying, executors or administrators may prosecute, etc. the same, in certain cases. in any court in this territory, and either of the parties shall die before final judgment, the executors or administrators of such deceased person who was plaintiff or defendant in the cause of action doth by law survive, shall have full power to prosecute or defend such suit or action until final judgment. And the defendant or defendants are hereby obliged to answer thereto accordingly, and the court before whom such case is dependent is hereby empowered and directed to hear and determine the same, and to render judgment for or against the executor or administrator as the case may require: and if the executor or administrator, being duly served with a *scire facias* from the office of the clerk of the court where the suit is pending twenty days before hand, shall neglect or refuse to become a party to the suit, the court may render judgment against the estate of the deceased, in the same manner as if the executor or administrator had voluntarily made himself a party to the suit. And the executor or administrator, who shall become a party as aforesaid, shall upon motion to the court be entitled to a continuance until the next term of the said court. — And if there be two or more plaintiffs or defendants, and one or more of them shall die, if the cause of action shall survive to the surviving plaintiff or plaintiffs or against the surviving defendant or defendants, the writ or action shall not be there

Sci. fa. to be served on executor, etc.

entitled to continuance at first term.

2 or more plaintiffs, etc. one dying action to proceed.

abated, but such death being suggested upon the record, the action shall proceed at the instance of the surviving plaintiff or plaintiffs against the surviving defendant or defendants. And in all civil cases if either party dies after verdict given, but before judgment is rendered, judgment shall be rendered as though both parties were living.

Sec. 12. The general court, and several courts of common pleas shall have power to require parties to produce books, etc. in any action depending before them, or motion and upon good and sufficient cause being shewn by affidavit or affirmation, and notice thereof being given to require the parties or either of them to produce books or writings in their possession or power, which contain evidence pertinent to the issue, and either party shall fail to comply with such order and to produce such books or writings to satisfy said court why the same is not in the party's power so to do, it shall be lawful for the said courts if the party so refusing shall be plaintiff to give judgment for the defendant as in cases of *non suit*, and if defendant to give judgment against him or her by default so far as relates to such part of the plaintiff's demand or the defendant's defence in which the books or papers of the party is pledged to apply.

Sec. 13. There shall be established in every district of this territory now erected or hereafter to be erected a court of *oyer and terminer and general jail delivery* for the trial of all capital offences committed in such district, which court shall consist of one of the judges of the supreme court, or by whom to

be held, the judges of the general court, and of judges of the courts of common pleas in respective districts, and shall be held at the same place where the courts of common pleas are held, as often as occasion may require, by one of the judges of the general court and one or more of the judges of the court of common pleas.

how called—

In all cases where a person now is or may be charged and committed in any district for any offence which by the laws of this territory may be punishable with death, it shall be the duty of the sheriff of such district to give notice thereof to the presiding judge of the general court who may then be in the territory, and the said presiding judge shall thereupon assign to himself or to any other judge of the general court to attend the court of oyer and terminer in such district, and it shall be the duty of the judge whom the attending of such court is assigned to issue his precept under his hand and seal to the sheriff of such district for the holding of such court of *oyer and terminer*. Provided that such precept shall be issued by the sheriff at least thirty days before the return thereof, and that the sheriff shall give public notice by proclamation at least two days before the sitting of the court. The expences accrued by notifying the presiding judge and forwarding the precept to the sheriff as aforesaid shall be paid out of the district treasury: upon an order or orders signed by the judge of the general court who attend the court of *oyer and terminer*. The several

what notice
to be given
therefor, etc.

expences
how paid.

Courts of *oyer and terminer* shall have power to adjourn from time to time and hold adjourned courts for the trial of any criminal, when it shall appear to the court that a postponement is necessary to procure the attendance of witnesses. And if the judge of the general court who adjourned the court should be unable to attend, it shall and may be lawful for any other judge of the general court to attend.

Sec. 14. The several courts of quarter sessions shall have original jurisdiction of all criminal offences committed in their respective districts, except such only as are punishable with death. And it shall be the duty of every grand jury empanelled at any court of quarter sessions to enquire into and present by presentment or indictment any offence committed in such district which by the laws of this territory, is punishable with death, where the offender has not been apprehended and the judges of the court of quarter sessions shall after such presentment or indictment is found by the grand jury award process for the apprehension of the person so indicted. And when such person has been apprehended and committed the same proceedings shall be had for the trial of the criminal as are provided by the fifteenth section of this act; and the indictment or presentment, with all recognizances, examinations, process and records thereto belonging shall be returned to the next court of *oyer and terminer and jail delivery* held in such district in pursuance of this act.

may adjourn
and hold ad-
journed
courts, &c.

Jurisdiction
of the courts
of quarter
sessions.

Duty of G.
jury in cer-
tain cases
not cogniza-
ble in quarter
sessions—

After indict-
ment found,
how court
shall proceed
in such cases.

Gen. court
no original
jurisdiction
in criminal
cases.

No grand ju-
ry to be re-
turned to it,
unless &c.

G. C. may
proceed by
information
in certain
cases—and
indictments
may in those
cases be re-
moved to
G. court.

Gov. to com-
mission clerk
of com. pls.
&c.

Clerk to give
bond,

Sec. 15. The general court hereafter shall not have original jurisdiction in criminal cases, nor shall a grand jury be returned to the general court; unless it shall be represented by the attorney general of this territory to the general court while in session, or to the presiding judge in vacation; that offences against the laws of the United States cognizable before the general court have been committed, in which case it shall be the duty of the court or of the presiding judge to issue a precept or precepts for the summoning and returning of a grand jury, returnable to the next term of the general court or to any day while the court is sitting.

Sec. 16. The general court shall have power to proceed by *information* against any public officer of this territory for oppression or misdemeanor in office. And indictments found by the grand jury of any district against a public officer for oppression or misdemeanor in office may be removed into the general court at the instance of the attorney general or of the defendant.

Sec. 17. The governor shall commission in every district a competent person as clerk of the courts of common pleas, quarter sessions and oyer and terminer of such district, who shall hold his office at the place where the said courts are held. And each clerk shall give bond with one or more sureties (to be approved of by two of the judges of the court of common pleas) to the governor or his successors in office, in the sum of one thousand five hundred dollars, faithfully to dis-

charge the duties of his several offices and seasonably to record the decrees, judgments and determinations of the several courts of which he is clerk, and for delivering up the records and other writings beionging to the said offices, whole, safe and undefaced to his successor in office.

Sec. 18. If at the first and second day of any term or session of the general court or court of common pleas or quarter sessions, a sufficient number of judges do not attend, it shall be the duty of the clerk of such court to adjourn the court to the next regular term or session: and no suit, process, indictment or pleading, civil or criminal, shall thereby abate or discontinue, but the same shall be continued of course to the next term or session of such court. And if after the session of any court has commenced the judges thereof should be prevented by sickness or other accident to meet on any day in term, no discontinuance of such term shall thereby be produced, but such court may meet and proceed to business on the next following day.

Clerk of G.
court and
com. pls &c.
to adjourn
court in cer-
tain cases,

lapse of term
not to pro-
duce a dis-
continuance,
etc.

Sec. 19. 'In all courts of record in this territory, the parties may plead and manage their own causes, personally, or by attorneys at law permitted to appear therein.

Parties may
plead perso-
nally or by
attorney.

Sec. 20. In all cases where the plaintiff resides out of this territory, in *qui tam* actions, in suits on administration and office bonds, and the defendant making affidavit that he has a just defence against the whole of the plaintiff's demand, the court in which such

Plaintiff
to give secu-
rity for costs
in certain
cases.

if it is commenced may grant a rule that the plaintiff give security for costs at the next term, and for want of such security, the court may on motion, order judgment of non *assess* to be entered.

Declaration
when to be
filed,

with copy of
writing or
account.

clerk to en-
dorse writ
thereon.

when to be
served—

defendant
when to
plead,

Sec. 21. It shall be the duty of every person issuing out an original writ to file by himself or agent with the clerk of the proper court, a declaration or petition to the court or other statement in writing, containing the true nature of his, her or their demand or complaint, and if upon any instrument in writing or upon an account, such declaration, petition, or statement shall be accompanied with a copy of such writing or account. On presenting such declaration, petition or statement in the clerk's office, it shall be the duty of the clerk to endorse thereon an order to the sheriff in the nature of a summons or *capias* according to the nature of the demand or complaint, and according to the provisions of this act; provided there shall be at least fifteen days between the execution of such writ and the term to which it is made returnable. It shall be the duty of every defendant to plead to the merits on or before the third day of each term; and if any part of the pleading is adjudged bad, immaterial or insufficient, the party shall be required to plead to the merits *instantly*. And if the plaintiff shall conceive that the matter contained in the defendant's plea requires time to reply to, he may continue his cause till the next term.

or proceed to trial. It shall be the duty of the court to try each cause in which an *issue* is made at the first term, provided they are of opinion the very right of the case can be obtained. If the defendant fails to appear and plead, the plaintiff may cause judgment to be entered up against him at any time during the last day of the term, which judgment shall be final. Pleadings may at any time be amended before a jury is sworn, provided no delay is produced thereby, nor either party surprised by the amendment. If the plaintiff continues his cause until the second term, he shall be bound to be ready for trial at that time when the cause is called, having within fifteen days of the court served the defendant or his attorney with a copy of his replication; and if the defendant should *demur* to the replication, the *demurrer* shall be disposed of when the cause is called and pleadings to the merits required *instantly*, and the cause be tried.

cases where
to be tried

judgment by
default.

amendment
of pleas, &c.

plf. to be ready
for trial at
2d. term, etc.

Sec. 22. The original process in all actions of slander, trespass, assault and battery, action on the case for trover or other wrongs, and personal actions except such as shall hereafter be particularly mentioned, shall be a writ of *summons* signed by the clerk, or one of the judges of the court from which such writ issues, and sealed with the seal of such court, directed to the sheriff of the district, commanding him to summon the defendant to appear at the next court to answer the

writ of sum-
mons in what
cases to be is-
sued.

and by whom

penalty for
issuing capi-
as,

unless on the
order of a
judge.

proceedings
thereon.

summons
how to be
served—

and when.

Writs of
capias in
what cases to
be issued—

complaint of the plaintiff. If a plaintiff shall in any of the before mentioned cases issue any other process whereby the defendant may be held to bail, the court shall abate the writ and allow the defendant his costs, and four dollars to be paid by him or them who procure such writ, and to be recovered by execution as in other cases. *Provided always* that any judge of any of the courts of this territory when upon proper affidavit or affirmation it shall appear to him proper that the defendant be held to bail in any of the before mentioned cases, the judge may make an order, whereupon a writ of *capias ad respondendum* may issue. Such order being filed in the clerk's office. And if the defendant shall consider himself aggrieved by the order of such judge he may appeal to the court at the next term, and the court shall overrule the judge's order the bail bond shall be cancelled, and the defendant's appearance accepted. The service of a summons shall be by reading the writ declaration petition or statement to the defendant, or delivering him a copy thereof, or leaving such copy at his usual place of abode with some person of the family above the age of fifteen years and informing such person of the contents thereof, such service to be at least fifteen days before the return day of the writ.

Sec. 23. In all actions of debt founded on any judgment, writing, obligatory bill, or note in writing, for the payment of money or other property, in actions of covenant, and

in actions on the case, where the plaintiff makes affidavit or affirmation of a real subsisting debt and of the sum in which he verily believes the defendant ought to give bail to secure such debt and the costs (which affidavit may be taken before any justice of the peace in this territory, and before the clerk of the court from which the writ is to issue and filed in his office) it shall and may be lawful for the plaintiff to sue out of the clerk's office of the proper court a writ of summons as is prescribed in the preceding section or a writ of *capias ad respondendum*, on which *capias* the true species of action, and the sum for which bail is demanded, shall be endorsed on such writ. It shall be the duty of the sheriff, to whom such writ of *capias ad respondendum* may be directed, to take the defendant's body, and commit him to the common jail of the district, or to take a bond of the defendant with sufficient sureties, in the sum endorsed on the writ, conditioned that the defendant shall be and appear at the term of the court to which the writ is returnable, and that if judgment be given at that or any subsequent term against him that he shall pay the debt or damages as the case may be, and costs, and surrender himself in execution, or that the sureties will do the same for him, which bond the sheriff shall return together with the writ, in the office of the clerk of the court from which the writ issued, on the return day in the writ named : And if the sheriff does not return the bail

amount of
bail to be en-
dorsed on
capias.

sheriff to take
body of de-
fendant
or take bail
bond,

condition of
bond,

to be return-
ed with writ

penalty on
sheriff for not
returning
bond, or tak-
ing insuffi-
cient bail,

provide.

bond, or the bail bond returned shall be ad-
judged insufficient by the court, and the de-
fendant shall fail to perfect his bail if rule
thereto; in such case the sheriff shall be
made *co-defendant* and may defend the suit
and shall be subject to the same judgment
and recovery as the defendant might
have been subject to. *Provided* that
all questions concerning the sufficiency of
bail shall be made and determined by the
court, during the term to which the writ
was made returnable, and *provided also* that
in civil cases no person shall be held to bail
in a district in which he does not reside, or
reside of this territory. And if any person
shall be arrested and imprisoned or held to
bail in a civil case in a district in which he
is not an inhabitant, he or she may be re-
leased from his or her imprisonment or bail
and the suit may progress as if bail was
required.

Def. in cus-
tody may
plead &c.

Sec. 24. Where the defendant is in custody for want of bail he may make his defense and the plaintiff may proceed in the same manner as is herein provided for.

Sheriff's remedy
against
bail &c.

Sec. 25. In all cases where the bail shall be judged insufficient and judgment against the sheriff, he shall have the same remedy against the estate of the bail as against the estate of the defendant.

Bail may sur-
render prin-
cipal.

Sec. 26. The persons who are bound in a bail bond as aforesaid may surrender the principal before the court when the suit is depending at any time before

after judgment. *Provided* it be before the Proviso, return of the first *scire facias* against the bail returned executed, or of the second returned *nihil*, but in either case the bail shall pay the cost of the *scire facias*, and judgment for the same shall be entered against him accordingly: Upon such surrender the bail shall be discharged and the defendant committed to the custody of the sheriff, or jailer attending such court or the bail may discharge himself by obtaining a copy of the said bail bond, out of the clerks office and surrendering the principal to the sheriff of the district, where the original was served, and the sheriff shall receive such defendant, and commit him to jail, and give a receipt for his body which shall be filed in the clerks office. When such surrender after judgment shall be to the sheriff, he shall keep the defendant in custody, in the same manner, and subject to the same rules as are provided for debtors committed in execution, for the space of twenty days, unless the creditor, his attorney or agent, shall sooner consent to his discharge. The bail shall give immediate notice of such surrender to the creditor, his attorney or agent, and if within the said twenty days the debtor shall not be charged in execution he shall forthwith be discharged out of custody; but the plaintiff may nevertheless afterwards have a remedy against the property of such debtor.

Sec. 27. No plea in abatement shall be admitted or received unless the party offering

Plea in abatement

ment to be
on oath—

plea denying
execution of
writings to
be put in on
oath.

Scroll of
equal force
with Seal.

Pleadings re-
gulated.

causes re-
moved to G.
C. to be tried
1st term,
unless, &c.

the same shall prove the truth thereof by oath or affirmation as the case may require. Whenever any suit shall be commenced in any court of this territory, founded on a writing, whether the same be under seal or not, the court before whom the same is depending, shall receive such writing in evidence of the debt or duty, for which it was given, and it shall not be lawful for the defendant in any such suit to deny the execution of such writing, unless it be by plea supported by the affidavit of the party putting in such plea; which affidavit shall accompany the plea and be filed therewith at the time such plea is filed. Any instrument or writing to which the person executing the same shall affix a scroll by way of seal, shall be adjudged and holden to be of the same force and obligation as if it were actually sealed.

Sec. 28. All pleadings containing sufficient matter to bring the merits of the case at issue may be admitted without respect to form. All pleadings entered in open court may be entered by the clerk in the minutes. Pleadings filed in vacation shall be signed by the party or his attorney. The clerk shall endorse on every declaration and plea the date on which the same are filed in his office. All causes removed into the general court by *appeal*, *certiorari*, or *habeas corpus*, the trial and final judgment shall be given at the term to which such removal is made returnable unless sufficient cause be shewn to the said court to induce them to grant further time

for the trial of such cause. Rules of practice adopted by the general court, shall be adopted by the several courts of common pleas and quarter sessions, as far as the same may be practicable. All writs of *enquiry* shall be executed at the next succeeding term after an *interlocutory* judgment is given, and in all cases where the demand is liquidated and reduced to writing the clerk may upon a judgment by *default*, calculate the principal and interest really due and endorse the amount on the execution.

rules of practice in general court binding in common pleas &c.

Writs of enquiry.

duty of clk. on judgment by default--

Sec. 22. Before the commencement of any term of the general court or court of common pleas, the clerk of such court shall enter in a particular docket all such causes and those only in which an issue is to be tried, or enquiry of damages is to be made, or a special verdict, case agreed or demurrer or other matter of law is to be argued in the same order as they stand in the course of the proceeding, setting as nearly as may be an equal number of causes to each day. And the said clerks shall make *subpoenas* for the attendance of witnesses returnable on the day for which such cause is put down. It shall be the duty of the said clerks respectively to put up in their several offices at least sixty days before the commencement of any term a list of causes to be tried or decided as aforesaid at the next term, marking thereon the day on which each cause is to be tried, and keep such list affixed in some conspicuous place, in their offices, till the end of the term, for the inspection of the parties, and their at-

Clk. to docket causes at issue &c.

docket when to be made and where to be put up,

penalty on
clk. for fail-
lure—

tornies, and every clerk neglecting so to do, shall upon conviction be fined at the discretion of the court in any sum not exceeding fifty dollars.

Writ etc. not
to be abated
etc for want
of form, ex-
cept etc.

Sec. 30. No writ, declaration, return, process, judgment or other proceeding in any civil cause in any of the courts of record in this territory shall be abated, arrested, qualified or reversed for any defect or want of form, but the courts respectively shall proceed to give judgment according to the right of the cause and the matter in law, shall appear to them, without regarding imperfections, defects or want of form, in such writ, declaration, or other pleading, return, process, judgment or cause of proceeding whatsoever, except those only in cases of *demurrer*, which the party *demurring* shall specially set down as the cause thereof. And the said courts respectively shall and may by virtue of this act, from time to time amend all and every imperfections, defaults, and want of form other than those only which the party *demurring*, shall express as aforesaid, and may at any term permit either of the parties to amend any defect in the process or pleading upon such condition as the said courts respectively shall in their discretion by their rules prescribe.

amendment
of pleading
etc.

Judgment
not to be ar-
rested in cer-
tain cases—

Sec. 31. No judgment after a verdict of twelve men, or award of arbitrators, shall be stayed or reversed, for any defect or fault in the writ *original* or *judicial*, or for variation

in the writ from the declaration or other proceedings, or any mispleading, insufficient pleading, discontinuance, misjoining of the issue; or want of a warrant of attorney, or for other informality in entering up the judgment by the clerk. And when a judgment is arrested the plaintiff shall not be obliged to bring a new suit, provided the first writ be sufficient; but the court may order new pleadings to commence where the error, causing the arrest began, and when a judgment is arrested the party committing the error shall pay the costs occasioned thereby.

suit not to
abate on ar-
rest of judgt.
if writ is suf-
ficient.

Sec. 32. In all suits cognizable in the courts of common pleas, when either of the parties shall fear that he will not receive a fair trial in the court wherein it is depending, on account of one the judges of the court where the suit is depending is interested or prejudiced, or that the sheriff (or if he be a party) the coroner is interested or prejudiced, or that the adverse party has an undue influence over the minds of the inhabitants of the district where the suit is depending, or that the petitioner is so odious that he cannot expect a fair trial, the said party may petition a judge of the general court for a change of the *venue* of such cause distinctly setting forth the cause of such fear, and supported by his affidavit or affirmation, previous notice of such application and of the time and place of hearing the same being given to the adverse party or his attorney, on which petition the judge may under his hand award a change of *venue*, and

Venue may
be changed
in suits from
one court of
com pleas
to another, in
certain cases

on order of
judge of gen.
court—

mode of pro-
cedure
thereafter.

expences of
removal by
whom paid,

and when

order the clerk of the court where the
is depending to send forward the papers
the suit by some fit person to the court
common pleas of the next convenient dis-
as the judge may direct, and the clerk of
court shall receive them and give a rec-
therefor, and docket the suit in order,
the court shall have full authority and ju-
diction to award *subpoenas* for witnesses,
to enforce their attendance; to grant re-
and commissions for the taking of de-
positions; to hear and determine the said
controversy; to award execution, and to do
every thing relating thereto which the court
from which the suit was removed might
done. The expences attending the removal
of such suit shall be paid by the petitioner
and the person employed to carry the papers
shall have the same fees for travelling
thereto, which shall be paid to the clerk
before the papers leave the office. The peti-
tion, affidavit, and judges order, together
with the expences attending the removal
shall be deposited with the clerk, at least three
days before the court to which the suit
be set to trial. No change of *venue* shall
take place so as to have the cause sent to
either of the districts, where the parties or
either of them reside, nor shall there be more
than one removal of the same cause.

Bill of excep-
tions to be al-
lowed and
signed by
judges of in-

Sec. 33. When one impleaded before a
court and in any cause where appeal or writ
of error lies to the general court, doth
allege an exception praying the judges to

allow it, if they will not allow it, and he that
 alleged the exception doth write the same
 exception, and require that the judges will
 sign the same. in testimony whereof the judges
 or the greatest part of them present shall do
 so—and if they shall refuse to sign a *bill of ex-*
ceptions tendered to them, and the same is cer-
 tified and signed by the bye-standers such bye-
 standers being at least three reputable inhabi-
 tants of this territory, the court shall permit the
 said *bill* to be filed, and become part of the re-
 cord, and if they refuse the general court may
 when such cause is brought before them, by writ
 of error or appeal upon proper affidavit of such
 refusal in their discretion admit such *bill of*
exceptions as a part of the record. When
 the court shall certify as cause of their refu-
 sal to sign such *bill*, that its statement is not
 true, and bye-standers shall sign the bill, cer-
 tifying its truth, affidavits may be taken by
 either party as to its truth, during the term,
 or if the cause be tried on the last day there-
 of, then within five days thereafter, and in ei-
 ther case shall be deposited with the clerk,
 and shall be certified with the record. But
 neither party shall file more than five such af-
 fidavits.

may be sign-
 ed by bye-
 standers in
 certain cases

and made
 part of the
 record &c.

Sec. 34. Every motion for the continuance
 of a cause shall be accompanied with an affi-
 davit of the party or his express agent that a
 material witness is absent, and stating what
 exertions have been made to procure his at-
 tendance, and that the same facts cannot be
 established by another witness, and that there

Motions for
 continuance
 to be on af-
 davit,

at whose cost
continuance
to be granted

is reasonable ground to believe that the witness may be procured by the succeeding term, in such case the party may at the discretion of the court obtain a continuance. All continuances shall be at the costs of the party obtaining the same, unless from the circumstances of the case the court should be of opinion that the costs should await the determination of the suit.

Who may
sue as poor
persons.

Sec. 33. Every poor person who shall be the cause of action against any person in this territory, shall have by the discretion of the court before whom he would sue *writs original writs of subpoena* according to the nature of the case nothing paying for the same. And the said court shall direct the clerk to issue the necessary process, and shall assign to him counsel learned in the law, and appoint other officers requisite and necessary to be had for the speed of said suit, who shall perform their duties without any reward for their counsels, help, and business in the same.

How minors
may sue—

Sec. 35. In every case where any person under the age of twenty one years may be the cause of action, their next friend shall be admitted to sue for them.

Judgments
may be confessed
before
clerk, etc.

Sec. 37. The clerks of the several courts of record shall have power and authority to sign all judgments confessed by any defendant in his proper person before them, to take oaths in all actions in their respective courts, to take acknowledgments of satisfaction of judgments entered on the records of the courts, and to administer oaths and affirmations.

tions respectively in conducting the business of their respective offices, in as full a manner as any judge of the said courts might, or could do.

Sec. 38. The judges of the general court may at their discretion upon application of the party who has heretofore removed any suit from an inferior court to the general court, remand any cause which has been removed from any court of common pleas into the general court and is still undetermined, by *procedendo* to the court of common pleas of the proper district established by this act, and the same may be tried and determined in the district under the same provisions as are prescribed by this act.

G. court may award *procedendo* in certain cases

Sec. 39. If in any action of trespass on the case for slander or action of trespass *vi et armis*, that may hereafter be instituted in any court of record within this territory, the plaintiff shall recover less than ten dollars, such plaintiff shall be allowed to recover two thirds of the costs given by law in such suit and no more.

Full costs not to be recovered in certain cases,

Sec. 40. The plaintiff in *replevin*, and the defendant in all other actions may plead as many several matters whether of law or fact, as he shall think necessary for his defence.

parties may put in several pleas.

Sec. 41. Judgments obtained in the general court shall be a *lien* on the lands and tenements of the person or persons against whom the same has been entered situate in any part of this territory, and judgments obtained in a

Judgment be a lien on lands,

for the space
of 5 years,

may be re-
vived by
scire facias,

such writs on
whom to be
served.

when defen-
dant &c. not
to be found
notice how
to be given.

court of common pleas of any district shall be a *lien* on the lands and tenements of the person against whom the same has been entered situate in such district. *Provided* that no judgment now on record in any court within this territory shall continue a *lien* on the lands and tenements of the person against whom the same has been entered during a longer term than five years from and after the passing of this act, unless the person who obtained such judgment, or his legal representative or other person interested shall within the said term of five years sue out of the court where the same has been entered a writ of *scire facias* to revive the same. And no judgment hereafter entered in any court of record within this territory shall continue a *lien* on the lands and tenements of the person against whom the same has been entered during a longer term than five years from the first return day of the term of which such judgment may be entered, unless the same shall have been *revived* by *scire facias* within the said term of five years as aforesaid, and all such writs of *scire facias* shall be served on the *terre tenant* or person occupying such lands and tenements bound by such judgment, and also on the defendant, or his assigns, or on the heirs, executors or administrators of such defendant or his assigns. And where the lands and tenements are in the immediate occupation of any person and the defendant or his assigns, or their heirs, executors or administrators cannot be found, the clerk of the court in which such proceedings shall have been instituted, shall cause

public notice to be inserted three times in some newspaper printed in this territory, or if none is printed in this territory, then in some newspaper printed in the nearest territory or state, calling on all persons interested to shew cause why such judgment should not be *revived*, and on proof of due service of the *scire facias*, or of such notice having been given as aforesaid, the court in which the first judgment has been entered, shall unless sufficient cause to prevent the same is shewn at or before the second term subsequent to the issuing of such writ direct and order the *revival* of such judgment during another period of five years against the lands and tenements of such defendant. And proceedings may in like manner be had again to *revive* any such judgment at the end of the said period of five years, and so from period to period as often as the same may be.—Such writs of *scire facias* may be issued by the several courts of common pleas into any district where the defendant lives.

Sec. 42. All lands, tenements and hereditaments whatsoever within this territory, where no sufficient personal estate can be found, shall be liable to be seized and sold upon judgment and execution obtained.

Lands, &c.
liable on execution.

Sec. 43. Writs of execution shall be issued by the clerks of the several courts of record in this territory in the following form, to wit:
"The United States of America to the sheriff of the district of _____ greeting:
Whereas A. B. at our court of _____ be.

Form of
writs of execution.

fore our judges hath recovered against C. D. the sum of _____ for debt (or damages as the case may be) and also for the sum of _____ which to the said A. B. were adjudged for his damages as well by reason of detaining the said debt for his costs in that suit expended as appears to us of record. These are therefore to command you that of the goods and chattels, lands and tenements of the said C. D. you cause to be made the aforesaid debt (or damages) and costs, and that you have the same before the judges of our said court on the _____ day of _____ next to render to the said A. B. the debt and damages (or damages alone) aforesaid. And for want of sufficient goods and chattels, lands and tenements whereon to levy and make the same, we command you that you take C. D. if he be found in your bailiwick, and him safely keep so that you have his body before the same judges on the said _____ day of _____, to satisfy the said A. B. of the aforesaid debt (or damages) and costs—and that you certify to our said judges how you execute this writ, and have you then there this writ. Witness E. F. presiding judge of our said court _____ the _____ day of _____

180. G. H. clerk." The clerk of the general court and courts of common pleas, shall keep a book for the purpose of entering a list of all executions issued, the officer to whom directed, and the amount of debt (or damages as the case may be) and costs for which

Clk. to keep
list of execu-
tions in a
book.

the same has issued and the return made thereon.

Sec. 44. Every writ of execution shall bind the property of the goods and slaves of the persons against whom such writ of execution is issued, but from the time that such writ shall be delivered to the sheriff or his deputy to be executed. And such officer shall upon the receipt of every execution endorse thereon the day of the month and the year whereon he received the same, and before the sale of such property the sheriff shall give ten days notice of the time and place of the sale thereof, and the articles to be sold, by at least four hand bills put up in the most public places of the district.

Sec. 45. Where lands and tenements shall be taken in execution by the sheriff it shall be his duty to expose the same to sale at the court house door on some day while the courts of common pleas or quarter sessions in the district are in session, having previously given twenty days notice of the time and place of sale, and what lands and tenements are to be sold, and where they lie, by at least six hand bills affixed in the most public places in different parts of the district. And upon such sale the sheriff shall make return of the writ together with a copy of the advertisement put up as aforesaid, and give the buyer a deed duly executed and acknowledged in court, for what is sold which deed shall recite the execution purchase and consideration and shall be effectual for passing to the purchaser all the estate and interest which

From what time goods, &c. shall be bound by execution—

sheriff, to endorse on execution the time he receives it, and give notice of sales,

where and when lands, &c. taken in execution shall be sold,

notice of sale how given,

duty of sheriff after such sale—

the debtor had or might lawfully part with the lands at the time the judgment was obtained.

Com. pleas
may issue
executions
to other dis-
tricts in cer-
tain cases—

proviso.

Sec. 46. The several courts of common pleas shall have power to issue executions in any district of this territory where it has been certified to such court that the defendant has no estate in the district, and upon such execution the sheriff shall proceed in the same manner as is before directed—*provided* that the sheriff shall acknowledge the deed in the court of the district where the lands lie.

Clerk to cer-
tify acknow-
ledgment of
deeds, &c. &c.

Sec. 47. It shall be the duty of the clerk of the several courts in this territory to endorse upon every deed acknowledged by any sheriff, a certificate of such acknowledgment and under the seal of the court, and to enter on the minutes a description of the lands and tenements sold, the purchase money, and the names of the parties to the suit.

certain deeds
of shff. may
be acknow-
ledged in
com. pleas.

Sec. 48. The sheriffs of the respective districts may acknowledge deeds for lands and tenements sold upon execution from the general court in the court of common pleas in the district where the lands lie.

Court may
order shff.
in office to
complete
sales of land
etc. taken by
former shff.
and make
deeds in cer-

Sec. 49. Where a sheriff shall die or be removed from office after having taken an execution any lands, tenements or hereditaments and before or after the sale thereof upon execution, and before the purchaser has obtained a deed, it shall and may be lawful for the plaintiff or purchaser to petition the

court from which the execution issued stating the premises, and (if after the sale) satisfying the court that the purchase money has been paid, whereupon it shall be the duty of the court to order the sheriff then in office to proceed to sell the lands, tenements and hereditaments, taken in execution, or to execute and acknowledge a deed to the purchaser as the case may be, which sale or deed shall have the same force and effect as if the sheriff who made the levy or sale had remained in office and sold the premises or executed the deed.

Sec. 50. In all cases where the sheriff and coroner shall both be disqualified on account of interest or prejudice the court may direct the process in such cases to one or two proper persons of the district to execute the duties and receive the legal fees of such sheriff for like services.

Court may appoint elisors in certain cases.

Sec. 51. A sheriff failing to return any writ of execution to the proper court, on or before the return day thereof, shall be liable to be fined by the court upon motion of the party injured, and three days previous notice being given, in any sum not exceeding five dollars per month for every one hundred dollars contained in the judgment, and so for any greater or lesser sum, counting from the return day of the execution, to the day of rendering the judgment or the fine.

penalty on shff for failing to return execution.

Sec. 52. If any sheriff shall return upon any execution that he hath levied the monies

penalty on

sheriff for making false return on execution, etc.

and not paying money collected,

how recovered—

by whom and when to be collected—

Bonds, etc. made assign-

therein mentioned or any part thereof, shall return that he hath taken the body of the defendant and hath the same ready to satisfy the plaintiff's judgment, and such sheriff shall have actually received the money, suffered the defendant to escape by his consent, or if it shall appear to the court by the sheriff's receipt, or by any other testimony that any sheriff hath received money on any execution put into his hands, and the sheriff in any such case shall refuse to pay the money to the person to whom the same is payable or to any other person duly authorized to receive the same, then and in either of the said cases the court upon motion of the party injured, three days previous to the same being given to the sheriff, shall give judgment against the sheriff for so much money as shall be returned levied on such execution or shall appear to the court to have been received by the sheriff, or for the full amount of the execution; in case the sheriff has suffered the defendant to escape by his consent and to award execution against him, or execution on the coroner shall execute in fifteen days after delivery, and pay the money levied to the party or any person duly authorized to receive the same, and shall nevertheless be liable to the same fine for like offence as is imposed by the fifty-first section of the act.

Sec. 53. All bonds, bills and promissory notes for money or property shall be assignable, and the assignee may sue for them in his own name.

53rd Section.

Quoted by Act 1821.22 - ps 71 & 2
Digest 144 S. 4

same manner as the original holder thereof able.
 could do. And it shall and may be lawful for
 the person to whom the said bonds, bills or
 notes, are assigned made over and endorsed
 in his own name to commence and prosecute
 his action at law for the recovery of the mo-
 ney mentioned in such bonds, bills or notes,
 or so much thereof as shall appear to be due
 at the time of such assignment in like manner
 as the person to whom the same was made
 payable might or could have done. And it
 shall not be in the power of the *assignor* after
 assignment made as aforesaid to release any
 part of the debt or sum really due by the said
 bonds, bills or notes. *Provided* nothing in
 this section shall be so construed as to change
 the nature of the defence in law that any de-
 fendant may have against the *assignee* or the
 original *assigner*.

assignee may
 sue in his
 own name

proviso—

Sec. 54. In all actions of *ejectment* the
 plaintiff shall declare in his proper name, and
 instead of the fictitious suggestion of *lease en-
 try* and *ouster* shall state that he is legally en-
 titled to the premises and aver the *ejectment*
 and trespass of the defendant, and the defen-
 dant may in his defence plead not guilty or
 plead his title according to truth. The par-
 ties having the same right of pleading joining
 issue and *demurring* as in other cases. The
 declaration shall be served in the same manner
 as is provided for by the twenty first section
 of this act. The *ejectment* shall be put on the
 docket like other causes, but the person
 through whom the possessor of the premises
 claims title may on motion be admitted de-
 fendant.

Proceedings
 in actions of
ejectment
 regulated

New trials
and arrest of
judgment.

Sec. 55. All motions for a new trial and in arrest of judgment shall be made within four days after the verdict rendered upon reasons in writing filed. Not more than one new trial shall be granted to either party — And the court may either direct the party obtaining a new trial to pay the costs, or direct that they shall await the determination of the suit.

Appeals,
writs of error,

Sec. 56. On an appeal or writ of error brought before the general court no exception shall be taken to the proceedings as laid in the court below, but such as have been expressly decided on by the inferior court. No more than three witnesses shall be taken in any bill of costs for the establishment of any one fact in a cause.

Costs of
witnesses.

Party not
recovering
\$200 in original
suit in
G. C. to have
no costs
certain actions
not to
be brought
in G. C.

Sec. 57. A party instituting hereafter by original writ a suit in the general court who shall recover less than two hundred dollars in debt or damages shall not be entitled to any costs from the adverse party. And no action of slander or assault and battery shall be instituted in the general court.

Attornies
to be
licenced and
by whom.

Sec. 58. No person shall be permitted to practice as an attorney or counsellor in any court of record in this territory unless he has obtained a license from one or more of the judges of the general court. Such license shall not be granted unless such person has studied law within this territory two years at least under the direction of some practicing attorney or person of legal knowledge, or

requisites to
obtain li-
cense—

have been admitted before in some court of record in some of the United States or territories as a practising attorney, and producing satisfactory certificates as to his good moral character, and it appearing upon examination had before the judge that he is well qualified. *Provided* that this shall not be required of those who have been heretofore admitted as attorneys and counsellors in the general court of this territory. Every attorney or counsellor obtaining a license as aforesaid from any judge shall take an oath or affirmation before such judge that he will support the constitution of the United States, and that he will demean himself honestly in his practice and exercise his office to the best of his knowledge and ability.

proviso in favour of those heretofore admitted.

attornies to take oath, &c.

Sec. 59. All writs issued by any court in this territory shall run in the name of the United States of America, and bear teste in the name of the presiding judge, and shall be sealed with the judicial seal of the said court, and made returnable to the next term after the date of such writs.

Style, test & seal to writs,

when returnable.

Sec. 60. The several courts of record in this territory shall have power to appoint some competent person as interpreter, to interpret the testimony of witnesses or other evidences to the court or jury when necessary, who shall hold their respective offices during the pleasure of the court. The said interpreters shall be sworn in open court to interpret well and truly to the best of their abilities and judgments the testimony of witnesses or other evidences which they may be

Court may appoint interpreters—

to take oath,

his compensation,

called to interpret. Every interpreter shall be entitled to receive for every witness or instrument in writing that he may interpret in open court the sum of twenty five cents to be paid by the party calling such witness or producing such other evidence at the time the service of the interpreter is required, and to be allowed like other costs to the party obtaining a judgment in such cause.

to be taxed in bill of costs

Terms of G. court.

Sec. 61. The supreme court of record of this territory styled "the general court" shall hold its sittings at the town of Saint Louis on the first Mondays of May and October yearly.

Certain cases to be tried by jury.

Sec. 62. In all criminal cases the trial shall be by a jury of twelve good and lawful men of the vicinage, and in all civil cases where the matter in dispute amounts to the sum of one hundred dollars the trial shall be by jury if either of the parties shall require the same at any time before the trial. And in all cases criminal and civil each party shall have compulsory process to procure the attendance of witnesses.

compulsory process for witnesses allowed.

Certain persons not permitted to be bail, unless, &c.

Sec. 63. No attorney or counsellor at law, sheriff, coroner, under sheriff, or other persons concerned in the execution of process shall be permitted to become bail in any civil case nor in any criminal case without obtaining leave from the court.

When nonsuit may be

Sec. 64 No plaintiff shall be permitted to suffer a *nonsuit* after the jury have retired

From the bar to make up their verdict. A judgment on confession shall be equal to a release of errors. Jurors knowing any thing relative to the point in issue shall disclose the same in open court. Where there are several counts in a declaration one or more of which are faulty and entire damages given the verdict shall be good, but the defendant may apply to the court to instruct the jury to disregard such count or counts as are faulty.

suffered.
Judgment
confessed,
etc.
Jurors, etc.

verdict in
certain cases
to be good,
altho' etc.

Sec. 65. Writs of error from the final decision or judgment of any court of common pleas shall issue on demand as a matter of course — but no writ of error issued out of the general court shall be a *supersedeas* unless by special order of the general court or some judge thereof in vacation, after inspecting copy of the record and the plaintiff in error or himself or a responsible person in his behalf entering in the clerk's office into a recognizance in double the sum recovered in the court below with one or more sufficient sureties to the defendant in error, to be approved of by the clerk, for the due prosecution of the suit in error, and in case of the affirmance of the judgment to pay the defendant in error the condemnation and costs. When such order is made and surety given as aforesaid the said clerk shall endorse on the said writ of error that it shall be a *supersedeas* and obeyed as such accordingly. If any execution shall have been issued from the inferior court before the producing of the writ

Party entitled
to writ of
error on de-
mand,

to be a super-
sedeas on or-
der of G. C.
or judge
thereof

on surety be-
ing given in
office of clk.
of G. C.

being pro-
duced to shew
he to stay

proceedings on execution. of error, the plaintiff in error or any person for him exhibiting the writ of error with the endorsement as aforesaid to the officer in whose hands the execution is, the officer shall not proceed any further with said execution, but return the same to the court stating thereon the reason of his having proceeded.

Judgment to be affirmed on error or appeal in certain cases— Sec. 66. Whenever the general court be divided in opinion on the hearing of writ of error or appeal the judgment or decree appealed from shall be affirmed.

General provisions in this act to apply to all courts. Sec. 67. When in any provision of this act no particular court is mentioned, such provision shall apply to the several courts of record in this territory respectively.

One convicted of perjury, etc. not to be witness. Sec. 68. No person convicted of perjury or subornation of perjury, although pardoned or punished for the same, shall be admitted as a witness in any court of record.

Rules of evidence established. The rules of the common law respecting evidence as adopted by the courts of the United States having common law jurisdiction shall govern the decisions of the courts of this territory in like cases.

Certain suits, etc. continued, and writs made returnable to first courts. Sec. 69. All presentments, indictments, actions, suits, pleadings or other proceedings whatsoever civil or criminal which were continued by the courts of common pleas at the next quarter sessions holden in the respective districts before the first day of September and all writs, process and proceedings aforesaid which are or may be made returnable to the first courts shall be made returnable to the first courts.

ble to the next courts of common pleas of quarter sessions shall be continued returned to and have day in the first courts of common pleas and quarter sessions to be holden in pursuance of this act in the respective districts.

Sec. 70. This law shall be in force from and after the first day of September next and the following laws of this territory, to wit, a law entitled "A Law establishing courts of judicature" and a law entitled "a law to regulate the practice of the the general court upon writs of error, and for other purposes" shall be repealed from and after the said first day of September next.

This law when to be in force—
certain acts repealed.

The foregoing is hereby declared to be a law of the Territory of Louisiana, and to take effect and be in force accordingly.

In testimony whereof, we Frederick Bates secretary of the territory of Louisiana, and exercising the government thereof, and John B. C. Lucas, and Otho Shrader, judges in and over the said territory, have hereunto set our hands at the town of Saint Louis the third day of July in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States of America the thirty-first.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

*Directing the Probate of Wills, and the
 ascent of intestates real estates, and the
 distribution of their personal estates, and
 other purposes therein mentioned.*

Judge of
 probate to be
 appointed in
 each district,

his duties,

his Office
 where to be
 kept,

to take oath,

and give
 bond,

condition of
 bond.

BE it enacted by the Legislature of the Territory of Louisiana, That there be appointed by the Governor one judge of probate in each district within this territory now established or hereafter to be established whose duty it shall be to take the proof of wills and testaments, and to grant letters testamentary and letters of administration with or without any last will and testament annexed, and to do and perform every matter and thing that may be enjoined on him by law, to attend in his office at the place where the courts of common pleas are held in such district at least one day in every month; which day, to be appointed by him, he shall set up a notice in his office.

Sec. 2. Every judge of probate previous to his entering upon the duties of his office shall be sworn before such person as the Governor may appoint to a true and faithful discharge thereof.—And shall give bond to the Governor and his successors in office with two or more sureties to be approved of by two of the judges of the court of common pleas in the proper district in such sum as the Governor may think proper to direct, which bond shall be conditioned for the true and faithful execution of his office, and for delivering up

the records and other writings belonging to said office, whole, safe and undamaged to his successor in office. *Provided* that the amount of any bond required to be given by a judge of probate shall not be less than two thousand dollars, nor more than five thousand dollars.

Provided.

Sec. 3. The said judges of probate upon their granting letters of administration of the goods and chattels of persons dying intestate within this territory shall take bonds with two or more sufficient sureties (respect being had to the value of the estate) in the name of such judge of probate with the conditions in manner and form following, to wit,

Judge of probate to take bond of administrators,

"The condition of this obligation is such that if the within bounden A.B. administrator of all and singular the goods, chattels and credits of C.D. deceased do make or cause to be made a true and perfect inventory of all and singular the goods, chattels and credits of the said deceased which have or shall come to the hands, possession or knowledge of him the said A.B. or into the hands and possession of any other person or persons for him, and the same so made do exhibit or cause to be exhibited into the office of the judge of probate for the district of

condition of bond,

at or before the

day of next ensuing. And the same goods, chattels, and credits, and all other the goods, chattels and credits of the said deceased at the time of death, which at any time after shall come to the hands or

R

' possession of the said A. B. or into the hands
 ' and possession of any other person or persons
 ' for him, do well and truly administer ac-
 ' cording to law. And further do make
 ' cause to be made a true and just account
 ' of his said administration, at or before the
 ' day of _____, and all the rest and
 ' residue of the said goods, chattels and cre-
 ' dits which shall be found remaining upon
 ' the said administrator's account, the same
 ' being first examined by the judge of pro-
 ' bate and allowed by the orphan's court of
 ' the district where the said administration is
 ' granted, shall deliver and pay to such per-
 ' son or persons respectively as the said or-
 ' phan's court by their decree and sentence
 ' pursuant to the true intent and meaning
 ' of this act shall limit and appoint: and if
 ' it shall hereafter appear that any last will and
 ' testament was made by the said deceased,
 ' and the executor or executors therein nam-
 ' ed do exhibit the same into the office of the
 ' judge of probate making request to have it
 ' allowed and approved accordingly, if the
 ' said A. B. within bounden, being thereto re-
 ' quired do render and deliver his said letters
 ' of administration, approbation of such tes-
 ' tament being first had and made in the of-
 ' fice of the said judge of probate, then this
 ' obligation to be void and of none effect, or
 ' else to remain in full force and virtue."—

administra-
 tor to take
 oath.

And such person to whom administration is
 granted shall also take before the said judge
 of probate an oath or affirmation that the said
 deceased died without any will as far as he

Knows or believes, and that he will well and truly administer all and singular the goods, chattels and credits of the said deceased, and pay his debts as far as his goods, chattels and credits will extend and the law require, and that he will make a true and perfect inventory of all the goods, chattels and credits, as also a just account when thereunto required.

Sec. 4. The bonds to be given by the administrators in pursuance of this act, may be put in suit and prosecuted from time to time, by and at the cost of any party injured by a breach thereof, until the whole penalty be recovered thereupon.

Admin's bonds may be sued by persons injured.

Sec. 5. All debts owing by any person within this territory at the time of his or her decease shall be paid by his or her executors or administrators as far as they have *assets* in the manner and order following, to wit: first phylic, funeral expences and servants wages, second, rents not exceeding one year, third, judgments, fourth, recognizances, fifth, bonds and specialties: and all other debts shall be paid without regarding the quality of the same, except debts due to the territory which shall be paid last. But if there shall not be *assets* sufficient to discharge such bonds and specialties, and other debts, then and in such case the same shall be *averages*, and the said creditors paid *pro rata* or an equal sum or proportion in the dollar as far as the assets will extend, first paying bonds and specialties as aforesaid, for which purpose the executors or administrators of such deceased person

debts in what order to be paid by executor or administrator.

when there is not assets, to be paid *pro rata*—

proportions
by whom to
be adjusted.

proviso.

Estates of
intestates
how to de-
scend and be
distributed.

to the widow
one third, &c.

shall or may apply to the orphan's court of the proper district which is hereby empowered to appoint three judicious and competent persons as auditors to settle and adjust the rates and proportions of the remaining *assets* due and payable to such respective creditors, whose report thereon if approved by the court shall be confirmed: and the executors or administrators shall pay such creditors accordingly. *Provided* that no creditor who shall neglect to exhibit his accounts to the executors or administrators within one year after public notice given in one or more of the public newspapers of this territory or if no paper is printed in this territory, then in any newspaper printed in any neighboring state or territory and continued in such public newspaper for four weeks, shall be entitled to demand or receive any dividend of such remaining *assets*.

Sec. 6. The remaining part of any land, tenements and hereditaments, and slaves and personal estate whereof any person died seized or possessed, not sold, or disposed of by will, nor otherwise limited by marriage settlement, shall be divided and enjoyed in the manner following, to wit; if the intestate leaves a widow and lawful issue, the widow shall be entitled to one third of such land and tenements of which the husband was seized and possessed during the *coverture*, either by virtue of a deed, patent, entry, warrant, or survey, and to which she had not relinquished her claim to dower, and of one third part of the slaves whereof the husband

died possessed, for and during her natural life, and at her death the said real estate and the slaves and their increase shall descend and be disposed of, as in this act provided with respect to the whole estate in case the intestate leaves no widow, and also to one third part of the personal estate absolutely. And the remaining two thirds of the said estate real and personal shall immediately descend, and be distributed to the lawful children of the intestate, such children always to inherit and enjoy as tenants in common in equal parts. And in case the person dying intestate shall leave several persons lawful issue in the direct line of *lineal* descent, and all of equal degree of consanguinity to the person so dying intestate, the said two thirds of such estate shall descend and be distributed to the said several persons as tenants in common in equal parts, however remote from the intestate the common degree of consanguinity may be, in the same manner as if they were all children of the person so dying intestate. And in case the intestate shall leave lawful issue of different degrees of consanguinity to him or her, the said two thirds of such estate shall descend, and the personal estate be distributed to the lawful child or children of the intestate if either or any of them be then living and to the lawful issue of such of the children as shall be then dead, leaving lawful issue as tenants in common; such issue always to inherit, if one person, solely, and if several persons as tenants in common in equal

to the children, and the issue of those who are dead, 2 thirds, &c.

and to grand
children, etc.
in certain
cases.

parts such share only as would have descended to his, her or their parent if such parent had been then living, and each of the lawful children of the intestate always to inherit and receive such share as would have descended or been distributed to him or her, if all the children of the intestate, who shall be then dead leaving lawful issue, had been living at the death of the intestate. And if there be no child of the intestate living at the death of the intestate, and only a grand child or grand children, and the lawful issue of a grand child or grand children who shall be then dead leaving lawful issue, then the real estate shall descend, and the personal estate be distributed to such grand child or grand children of the intestate, and to the lawful issue of such of the grand children of the intestate as shall be then dead leaving issue, as tenants in common; such issue always to inherit if one person, solely, and if several persons as tenants in common, in equal parts, such share only as would have descended to his, her or their parent, if such parent had been then living. And each of the grand children of the dying intestate, who shall be living at the time of the death of the intestate, always to inherit and receive such share as would have descended, or have been distributed to him or her, if all the grand children of the intestate who shall be then dead leaving lawful issue had been living at the time of the death of the intestate. And the same law of inheritance, descent and distribution shall be observed in case of the death of the grand

children and the descendants to the remotest degree.

Sec. 7. In case the intestate leaves no widow, the whole real and personal estate shall descend and be divided as is directed in the preceding section with respect to the estate not disposed of in favor of the widow; and if the intestate shall leave a widow and no lawful issue the said widow shall have one moiety or half part of such lands and tenements of which her husband was seized and possessed during the *coverture* either by virtue of a deed, patent, entry, warrant or survey, and to which she had not relinquished her claim to dower, and the one half of the slaves whereof the said intestate died possessed during her natural life, except in cases where in the judgment of the orphan's court the estate cannot be with propriety divided, and in that case she shall have and receive the rents and profits of one moiety of the real estate during her natural life, and one moiety of the personal estate absolutely; the remaining moiety to descend and be disposed of as is provided with respect to the whole estate in case the intestate leaves no widow. And the real estate and slaves to be enjoyed by the widow during her natural life together with the increase of such slaves, shall descend and be disposed of as is by this act provided with respect to the whole estate in case the intestate leaves no widow.

Estates of
intestates
how to de-
scend and be
distributed
no widow
left.

widow and no
issue, she to
have the one
half, &c.

Sec. 8. In case any person so as aforesaid seized or possessed shall die leaving neither

Where there
is no widow

her issue, etc.
father to in-
herit, etc.

After death
of father, to
brothers and
sisters, etc.

widow nor lawful issue, but leaving a father the whole of the said real estate and slaves shall be enjoyed by the father of the intestate for and during the natural life of such father, and the personal estate of the said intestate shall pass and be vested in the father absolutely, unless the said real and personal estate and slaves or either of them came to the person so dying seized or possessed from the part of his or her mother, in which case the said estate or such part thereof as shall have come from the part of his or her mother shall descend, pass, and be enjoyed, or possessed as such person so dying seized or possessed had survived his or her father.

Sec. 9. If any person so dying seized shall leave neither widow nor lawful issue, but shall leave a father and brothers and sisters, the said real estate and slaves and their increase shall descend to and be enjoyed by the brothers and sisters of the intestate after the decease of the father, as tenants in common in equal parts; and if any of the brothers and sisters of the intestate shall be then dead leaving lawful issue, then it shall descend to and be enjoyed by the surviving brothers and sisters and the lawful issue of such brothers and sisters as shall be then dead leaving lawful issue, such issue always to inherit if one person, solely, if several persons as tenants in common in equal parts, such share only as would have descended to his, her or their parent, had such parent been then living, and each of the brothers and sisters of the person so dying intestate who shall be living at the

time of the death of the intestate always to inherit and enjoy such share as would have descended, or been distributed to him or her, as if all the brothers and sisters leaving lawful issue had been living at the time of the death of the intestate. But if the intestate shall leave no brothers nor sisters nor their representatives then the estate and slaves shall go to the father in fee simple unless when the estate has descended from the part of the mother as aforesaid.

Sec. 10. In case any person so as aforesaid seized or possessed shall die leaving no widow nor lawful issue, nor father, but leaving a mother, then the whole of the real estate and slaves shall be enjoyed by the mother of the intestate for and during the natural life of such mother: and the personal estate of the said intestate shall pass and be vested in the said mother absolutely, *unless* the said real and personal estate and slaves or either of them, came to the person so dying seized or possessed thereof from the part of his or her father, in which case the said estate or such part thereof as shall have come from the part of his or her father, shall descend, pass and be enjoyed or possessed as if such person so dying seized or possessed had survived his or her mother.

The mother in certain cases to enjoy estate.

Sec. 11. If the person dying seized shall leave neither widow, nor lawful issue, but shall leave a mother and brothers and sisters, the said real estate and slaves, together with the increase of such slaves shall descend to and be enjoyed by the brothers and sisters of

after death of mother, brothers and sisters of the intestate to enjoy, etc.

the intestate, or their representatives, at the decease of the mother, as tenants in common in equal parts. And if any of the brothers or sisters of the intestate shall then be dead leaving lawful issue, then it shall descend to, and be enjoyed by the surviving brothers and sisters and the lawful issue of such brothers and sisters as shall be then dead leaving lawful issue, such issue always to inherit if one person, solely, if several persons as tenants in common in equal parts, such share only as would have descended to him or her or their parents, had such parent been then living; and each of the brothers and sisters of the person dying intestate, always to inherit and enjoy such share as would have descended and been distributed to him or her if all the brothers and sisters leaving lawful issue had been living at the time of the decease of the intestate. And in the same manner the estate of any intestate leaving neither widow nor lawful issue, nor father and mother but brothers and sisters, shall be distributed among the brothers and sisters of such intestate or their representatives.

Kindred of
half blood
may inherit
unless, etc.

Sec. 12. There shall be no distinction in the distribution of any intestate's estate between kindred of the whole or half blood unless when the inheritance came to the person so seized by descent, demise or gift from some one of his or her ancestors, in which case all those who are not of the blood of such ancestors shall be excluded from such inheritance.

Sec. 13. All *posthumous* children shall in all cases whatsoever inherit in like manner as if they were born in the lifetime of their respective fathers.

Posthumous children to inherit—

Sec. 14. The real and personal estate and *aves* of any person dying intestate, in case such person leaves neither widow nor lineal descendants, nor father, or mother, nor brother or sister, nor lawful issue of any brother or sister, shall descend to and be divided among the next of *kin*, of equal degree; and if any such kindred shall be then dead leaving lawful issue, then it shall descend to and be enjoyed by such surviving kindred, and the lawful issue of such kindred as may be then dead leaving issue as tenants in common; such issue always to inherit if one person, solely, if several persons as tenants in common in equal parts, such share only as would have descended to his, her or their parents if such parent had been then living; and each of the kindred in equal degree to the person so dying intestate who shall be living at the time of the death of the intestate, always to inherit and receive such share as would have descended to him, or her, if all such kindred leaving lawful issue had been living at the time of the death of the intestate.

Where there is no widow, issue, father, &c. &c. who to inherit—

Sec. 15. The share of the intestate in this act allotted to the widow shall be in lieu and satisfaction of her dower at common law.

Share of widow under this act, in lieu of dower—

Sec. 16. When a woman dies leaving an husband, he shall take the personal estate ab-

How the estate of a wo-

man, dying
leaving hus-
band, shall
descend, etc.

solutely, and the real estate and slaves and their increase shall go and descend in the same manner as is directed in the case of men dying intestate, saving to the husband his right as *tenant by the courtesy*.

The mother
of intestate
to enjoy, &c.
in certain
cases.

Sec. 17. If any intestate shall die seized of real estate in fee simple, or slaves, and leave no widow, nor issue, father, brother, sister or their representatives, the said estate and slaves shall go and be vested in fee simple in the mother, unless where such estate has descended from the part of the father, in which case it or such part thereof as shall have come from the part of his or her father shall pass and be enjoyed as if such person dying seized had survived his or her mother.

What per-
sons may
make a will.

Sec. 18. Every person aged twenty years or upwards, being of sound and disposing mind and not a married woman (unless when by marriage settlement or special authority of the husband, power is given to a married woman to make a will) shall have power at his will and pleasure by last will and testament in writing to divide all his estate, right, title and interest in possession, reversion, remainder, which he or she hath or at the time of his or her death shall have of, or in, or to lands, tenements, hereditaments, annuities or rents, charged upon or issuing out of them or slaves, so as such will and testament be signed by the testator or testatrix, or by some other person in his or her presence, and by him or her direction, and moreover if not wholly

what may be
devised—

Will how to
be executed,

written and signed by himself or herself be attested by three or more competent witnesses subscribing their names, in his or her presence, *saving* to the widows of the testators their legal right of dower in such lands and tenements, rents and annuities which shall not be prejudiced by any devise thereof.

right of dower saved—

Sec. 19. Any person above the age of eighteen years shall be capable of disposing of his or her goods and chattels by will, so as such will be executed in the same manner as is prescribed in the foregoing section.

Persons of the age of 18 may dispose of goods.

Sec. 20. No will in writing or any devise therein shall be revoked by a subsequent will, codicil, or declaration, unless the same be in writing and executed in the same manner as is provided with respect to wills and testaments.

How will can be revoked by another will,

Sec. 21. No devise so made, or any clause thereof shall be revocable but by the testator or testatrix destroying, cancelling, or obliterating the same, or causing it to be done in his or her presence, or by a subsequent will, codicil or declaration in writing made as aforesaid.

or by cancelling, etc.

Sec. 22. Where any person shall make his or her last will and testament and omits to mention the name of any child or children or afterwards shall marry or have a child or children not provided for in any such will, and die leaving a widow and child, or either widow or child, although such child be born

Legatees, &c. to contribute to raising certain shares, &c. &c.

after the death of its father, every such person, so far as shall regard the widow or such child or children, shall be deemed to die intestate, and such child or children shall be entitled to such proportion, shares, or dividends of the estate real or personal of the deceased as if he or she had actually died without any will; towards raising which portions the devisees and legatees shall contribute proportionably out of the part devised or bequeathed to them by the same will and testament, and the orphan's court shall have power to order and decree a distribution of the estate according to the true meaning of this act.

Nuncupative
wills where
to be made
and how pro-
ven—

Sec. 23. No *nuncupative* will shall be established unless it be made in the time of last sickness of the deceased at his habitation or where he hath resided for ten days next preceding, except when the deceased is taken sick from home and dies before he returns to his habitation, nor when the value exceeds two hundred dollars, and unless it be proved by two witnesses that the testator called some person present to take notice or bear testimony that such is his will, or words to the like import.

when to be
proved,

Sec. 24. After six months past after speaking of the pretended testamentary words, testimony shall be received to prove any will nuncupative, except the said testimony or the substance thereof were committed to writing within six days after the making said will.

Sec. 25. No letters testamentary or probate of any *nuncupative* will shall be granted by any judge of probate until fourteen days at least after the death of the testator be fully expired: nor shall any *nuncupative* will be at any time received to be proved unless a citation be first issued to call in the widow or next of kin of the deceased to the end they may contest the same if they please.

When letters testamentary and probate of nuncupative wills to be granted.

Sec. 26. *Provided* that any mariner or person being at sea, or soldier being in actual military service, may dispose of his moveables, wages and personal estate as he or they might have done before the making of this act.

Proviso in favour of seamen and soldiers.

Sec. 27. If any testator or intestate shall have a mansion house, or known place of abode in any district, his will shall be proven before or letters of administration granted by the judge of probate of such district. If he has no such place of residence, and lands be devised in the will or the intestate be possessed of lands, it shall be proved or administration granted in the district wherein the lands lie, or in one of them if they lie in several districts: and if he hath no such known place of residence, and there be no lands devised nor the intestate possessed of any lands, then the will may be proved or administration granted in the district where he dies, or where the greater part of the estate shall be.

In what district probate of wills, etc. shall be granted.

Sec. 28. When any will shall be exhibited to be proved the judge of probate having ju-

Will before whom to be

proved— jurisdiction as aforesaid may immediately receive the proof thereof, and grant a certificate of such probate. If however any person interested shall within five years afterwards appears, and by his petition to the general court contest the validity of a will, and it shall be made up whether the writing produced be the will of the testator or not, when issue shall be tried in the general court by jury if either party require it, or by the court and the verdict of the jury or judgment of the court shall be final, saving to the court the power of granting a new trial, for a cause as in other cases. But no such person appearing within that time, the probate shall be forever binding, saving to infants and married women and persons absent from the United States or territories, or of unsound mind, the like period after the removal of the respective disabilities.

Where witnesses to a will live out of territory, &c. how the same to be proved,

Sec. 29. The said judge of probate when any will shall be produced to him for probate and any witnesses to the same shall be prevented by sickness to attend or resides out of the territory, or more than sixty miles from the place where the office of the judge of probate is kept, may issue a commission under the seal of the court and directed to any judge of any court of law, to any notary public, mayor or other chief magistrate, empower him to take and certify his attestation of the will. The person so commissioned shall certify in the usual manner that the witnesses personally appeared before him and made oath or affirmation that the testator signed and published

ed the writing annexed to such commission, as his last will and testament, or that some other person signed it by his direction, that he was of disposing mind and memory, and that the witness subscribed his name thereto in his presence and at his request, such oath or affirmation shall have the same operation as if it had been made before a judge of probate from whom such commission issues.

Sec^o 10. Authenticated copies of wills proved according to the laws of any of the United States or territories or country, with the probate thereof annexed or endorsed being transmitted into this territory under the public or common seal of the court or offices where the same have been or shall be granted and recorded, or entered in the office of the judge of probate for the proper district, shall be good and available in law for the granting, conveying and assuring of the lands and tenements thereby given or demised, as well as of the goods and chattels thereby bequeathed; and copies made as aforesaid other than copies or probate of such wills as shall appear to be annulled, disproved or revoked, shall be judged and deemed and are hereby declared and enacted to be matter of record, and shall be good evidence to prove the gift or devise so made thereby, and all such probates as well as letters testamentary or administration granted out of this territory being produced here under the seal of the court or office granting the same, shall be sufficient to enable the executors or administra-

Will duly
proved out of
territory how
to be authen-
ticated and
have force
within it—

declared
good—

and matter
of record
and given in
evidence.

Provide.

tors by themselves or attornies to bring their action in any court within this territory, as the same probates or letters testamentary administrations were granted here and produced under the office seal of the judge probate of any district of this territory—*Provided* that any of the wills whereof copies or probate shall be produced and given in evidence as aforesaid may be contested, disproved, and annulled within the same period and in the same manner as is provided in the twenty eighth section of this act with respect to wills proven in this territory.

On trial concerning will certificate, &c. to be evidence.

Sec. 31. In all trials respecting the validity of a will the certificate of the oath of the witness, at the time of the first probate, shall be admitted as evidence to have such weight as the court or the jury shall think it deserves.

Executors, &c. to take oath—

form of the oath—

Sec. 32. Executors and administrators with the will annexed shall before granting a certificate of the probate of any will, take an oath or affirmation before the judge of probate that they will well and truly perform the last will and testament of the testator by paying first his debts, and then the legacies contained in the said will, as far as his goods, chattels and credits will extend and the law charge them, and that they will make a true and perfect inventory of the said goods, chattels and credits, as also a just account when thereto required.

Person named as executor

Sec. 33. If the executor named in any will shall refuse the executorship the judge of

probate may receive the proof of the will and grant letters of administration with the will annexed to the person to whom administration would have been granted if there had been no will of the deceased,

tor will not accept administration to be granted.

Sec. 34. Executors or administrators with the will annexed or of goods not administered before, shall give bonds with securities and take an oath or affirmation as is provided with respect to administrators of intestate's estates only changing such parts thereof as the different circumstances of the case respectively may require. *Provided* that any testator by an express provision in his will may direct that no security shall be given by his executor or executors except in cases provided for in the thirty-fifth section of this act.

Executors of administrators with will annexed to give bond, and take oath

proviso,

Sec. 35. Whenever any legatee, creditor or person interested in the real or personal estate of a person who has heretofore died or shall hereafter die, or surety in any bond given by executors or administrators shall declare on oath or affirmation that he, she or they have sufficient cause to believe that the executor or administrator are wasting or mismanaging the estate of such decedent, or that the sureties given in any of the aforesaid bonds are likely to become insolvent, and shall make application to the orphans' court of the district in which the letters testamentary or letters of administration have been or shall be granted, the said orphans' court are hereby empowered to examine the cause of complaint and if it should appear to them that the same

Orphans' court may in certain cases order executor to give surety when none has been given.

a further
surety of ad-
ministrators.

Ex'r or adm'r
failing to
comply with
such order
adm'n to be
vacated,

and granted
anew—

duty of for-
mer ex'r or
adm'r.

As just, it shall and may be lawful for the court to order such executor or administrator to give such sufficient bond with sureties notwithstanding the testator shall have directed in and by his last will and testament no security shall be given by his executor or executors : or such further surety as judge of probate, if he may think necessary amounting to the value of the estate. Wherefore sureties shall be taken and filed with the judge of probate in the name of such judge, and said bond shall be deemed and considered in trust for the benefit of all persons interested in said estate, whether legatees, legal representatives, creditors, or sureties in former administration bonds. And in case such executor or administrator shall refuse or neglect for the space of thirty days after due notice of such order, to give the security, or furnish security, so ordered then the said judge of probate shall vacate the letters testamentary or of administration, and grant new letters to such person or persons and upon such security as the said judge shall think proper ; and shall moreover order the former executor or administrator to deliver over and pay to the successor all and every the goods, chattels and credits, rights, title deeds, evidences and securities which were the decedent's, and which came to his or their hands, and remain unadministered, and to account with the said successor for all and every the goods, chattels, rights, and credits, which shall have been previously administered, and pay over the balance which may remain due from him or

them to the said successor, in such manner and time as the orphans' court shall upon an examination and confirmation of such account (to be had according to the course of proceeding by this act provided for in cases of accounts of executors and administrators settled in such court) award and order : And if any such superceded executor or administrator shall neglect or refuse to comply with such award or order, the orphans' court on motion shall proceed against him or them by *attachment for contempt* ; or the succeeding administrator may proceed at law against him or them or his or their sureties if any there be, or against any other person or persons that may be possessed thereof, or both the same remedies may be pursued at the same time if the case may require until the end be fully attained. *Provided* that such suits be instituted against such sureties within seven years after the date of the respective bonds, and the whole amount of the sums of money to be recovered thereupon shall not exceed the penalties of the said bonds respectively.

failing may
be attached
for contempt,

or last adm'r
may proceed
against him
etc. at law,
etc.

Proviso,

Sec. 36. The power of executors over their testators' estates before probate of the will shall in no wise be restrained, but shall continue as heretofore. Executors or administrators with the will annexed shall file their inventories and accounts within the same periods respectively as is provided heretofore in this law with respect to administrators of intestates.

Power of
ex'r before
probate of
will.

Inventories
to be filed by
ex'rs, etc.

Sec. 37. During any contest about a will, Judge of prob;

Probate may appoint adm'r for certain purposes for a time limited.

or in the absence of the executor, or during the minority of the executor, the judge probate may grant letters of administration during the minority of such executor, may appoint any person or persons to collect and preserve the estate of any decedent, upon a probate of his will, or administration of estate be granted, taking bond and security for administering the estate of such testator well and truly during the minority of the executor, or for collecting the estate and making an inventory thereof, and safe keeping and delivering up the same when required to by the executor or administrator.

Minors cannot be ex'rs or adm'rs—

Sec. 38. No person can act as an executor or administrator unless he be twenty years of age or upwards.

Who shall be entitled to have adm'n.

Sec. 39. Letters of administration shall be granted to the representatives of the intestate who apply for the same, preferring first the husband or wife, and then such others as are next entitled to distribution or one or more of them as the judge of probate shall consider will best manage and improve the estate. And if no such person applies for administration within thirty days from the death of the intestate the judge may grant administration to any creditor who may apply for the same or to any other person the judge in discretion may think fit. But if any will shall afterwards be produced and proved by executors, or if the wife or other distributee who shall not have before refused shall apply for administration the same shall be granted.

in like manner as if the former had not been obtained. *Provided* that if the widow or any distributee after being served with a citation issued by the judge of probate shall neglect to appear within fifteen days after such service to take out letters of administration, such neglect shall be considered as a renunciation of such person to the administration.

Proviso.

Sec. 40. No security for any executor or administrator shall be charged beyond the assets of the testator or intestate by reason of any omission or mistake in pleading, or false pleading of such executor or administrator.

Security not bound beyond assets of testator, etc.

Sec. 41. If any judge of probate shall neglect to take such bond as is provided for to be taken by him by this act, or shall not take good security in the same, to be adjudged of, according to the apparent circumstances of the security when taken and not from subsequent accident or discovery thereof, such judge of probate and his securities in his office bond shall be answerable to the person injured for the loss or damage occasioned thereby, recoverable with costs, by an action on the bond against the judge and his securities, or against the judge of probate alone in any court of record.

Remedy against judge of probate for not taking bonds, etc.

how recoverable.

Sec. 42. Every judge of probate granting letters testamentary or of administration shall nominate three respectable householders of the neighborhood of the deceased, as appraisers, who being sworn or affirmed before the

Judge of probate to appoint appraisers, who are to be sworn.

Their duties.

judge of probate, or any justice of the peace for that purpose, shall truly and justly to the best of their judgment, view and appraise all the slaves, and all the personal estate to them produced, and shall return such appraisement under their hands to the judge of probate or, ordering the same, which appraisement if signed by the executor or administrator may be considered as an inventory of such part of the estate as had heretofore come to his hands.

**Inventories
etc. to be
evidence—**

Sec. 43. Inventories and appraisements may be given in evidence in any suit by or against the executor or administrator, but shall not be conclusive for or against them if other testimony be given that the estate was really worth or was *bona fide* sold for more or less than the appraisement.

**Appraiser's
compensation.**

Sec. 44. Each appraiser shall be entitled to one dollar per day for his attendance to be paid out of the estate of the deceased.

**Goods, etc.
of deceased
to be sold by
executor.**

Sec. 45. Executors and administrators whether it be necessary for the payment of debts or not, shall as soon as convenient after they are qualified sell at public sale, all such goods of his testator or intestate, specific legacies excepted, as are liable to perish, be consumed, or rendered worse by keeping, giving such credit as they shall judge best, and the circumstances of the estate will admit of, taking bonds or promissory notes and good security of the purchasers, and shall account for such goods according to the sales. If

more be fold than will pay the debts and expences, the executors or administrators may assign said notes for the surplus to those entitled to the estate, and be discharged as to so much.

Sec. 46. If such perishable goods be not sufficient for the paying of debts and expences, the executors or administrators shall proceed to sell the other personal estate disposing of the slaves last, until the debts and legacies be all paid having regard to the specific legacies.

Slaves to be sold last:

Sec. 47. Provided, that if any testator directs his estate not to be appraised it shall be sufficient to return an inventory thereof only; and if he directs his estate not to be sold the same shall be preserved in specie, unless a sale be necessary for the payment of debts.

Inventory only and no sale to be made in certain cases.

Sec. 48. The judges of the respective orphan's courts, and all others concerned in the execution of any last will and testament, shall have due regard to the direction of the will, and the true intent and meaning of the testator, in all matters and things that shall be brought before them concerning the same.

Direction of the will to be pursued.

Sec. 49. The sale and conveyance of lands and tenements to be sold in pursuance of a will shall be made by the executors or such of them as shall undertake the execution, or by the surviving executor, or by the administrator with the will annexed, if no other person be appointed in such will for that pur-

Sale of lands directed by will, by whom to be made—

pose, or if the person so appointed shall refuse to perform the trust or die before he shall have completed it.

**Distribution,
&c. when to
be made—**

Sec. 50. Executors and administrators shall not be compelled to make distribution or pay legacies, until one year after the death of the testator or intestate. Nor shall any executor or administrator be compelled to make distribution or pay legacies at any time unless bond and security be given by the person entitled to distribution or legacy, to refund the proportions of any debt or demand which may afterwards appear against the estate and the costs attending the recovery of such debt.

**Compensation,
&c. to
ex'rs and
adm'rs by
whom al-
lowed.**

Sec. 51. Executors and administrators shall be allowed in their accounts, all reasonable charges and disbursements, which they shall lay out and expend, in the funeral of the deceased, and other their administrations, and may be allowed such recompense for their personal trouble as the orphan's court in paying their accounts shall judge reasonable.

**Ex'rs &c.
may settle
their acct's
as far as they
have pro-
ceeded,**

**and be dis-
missed, &c.**

Sec. 52. Any executor or administrator with or without a copy of a will, may with leave of the judge of probate, or of the orphan's court of the proper district, make settlement of his account, so far as they have administered the estate of the deceased; and also with leave of either of the said courts may be dismissed from the duties of their appointment, and surrender the residue of the estate under his care to such person as the

court may appoint. And the judge of probate shall grant, in manner as herein before directed, letters of administration of the unadministered part of such estate.

Sec. 53. Where any executor, administrator or guardian shall have settled and filed his accounts in the office of the judge of probate for the proper district, it shall be the duty of such judge to examine the same and compare the several charges with the respective vouchers, and to give notice by written advertisements in at least three of the most public places in the district, to all legatees and other persons concerned, that such executor, administrator or guardian (as the case may be) has filed his account and that the same will be presented to the orphan's court for confirmation and allowance, at the time and place for that purpose appointed, a copy of which notice shall also be set up in his office: at which time so appointed it shall be the duty of the judge of probate to attend in the said orphan's court with the account.---- And no account shall be confirmed or allowed by the court unless such notice shall have been given and a copy thereof set up in the office aforesaid, at least thirty days prior to the time appointed for such confirmation and allowance.

Ex'rs, &c. to settle their acct's with judge of probate—

his duty thereafter.

Acc'ts to be confirmed by orphans' court.

Sec. 54. If any testator shall devise or bequeath to his wife any portion of his estate, such devise or bequest shall be deemed and taken to be in lieu and bar of dower out of the estate of her deceased husband, in the

Devise to wife to be in lieu of dower, unless.

Proviso.

like manner as if the same were expressed unless such testator shall by his last will and testament declare otherwise; *Provided*, that nothing in this section contained shall deprive the widow of her choice either to dower, or the estate so devised or bequeathed. And it shall and may be lawful for any such widow, who will make choice of her dower, within one year from the time of the death of the testator before the proper judge of probate or by deed executed and acknowledged before any justice of the peace of the county, to be tried and filed and entered with the said judge of probate to declare that she will not accept of the provisions made for her by such will, or any part thereof, and renounce all benefits which she might claim under such will. Every widow not making a declaration within the time aforesaid, shall have no more of her husband's estate than is given to her by will.

Portions advanced in life time of intestate, how to be taken, on distribution.

Sec. 55. In case any child shall have estate by settlement of the intestate, or shall be advanced by the intestate in his or her life-time, by portion or portions equal to the share which shall be divided or allotted to the other children, and other descendants whether the same be by lands, or personal estate, such person shall have no share of the estate of which the said person died seized or possessed, and in case any child shall have any estate by settlement from the intestate or shall have been advanced by the said intestate in his or her life-time, whether the said portion or ad-

vancement be in real or personal property, but not equal to the share which will be due to the other children or descendants, then so much of the surplusage of the said estate of the intestate, to be distributed to such child or children, as shall make the estate of the said children or descendants to be equal; *excepting nevertheless*, that when the issue of a testator shall not be of equal degree to the person dying seized or possessed the several descendants taking by representation, to inherit and enjoy, if one person, solely, if several persons as tenants in common in equal parts such share only as would have descended or been distributed to his, her or their parent or ancestor if such parent or ancestor had been living.

Proviso.

Sec. 58. If any person shall die intestate being owner of lands and tenements within this territory at the time of his or her death, and leave lawful issue, but not sufficient personal estate and slaves to pay his just debts and maintain his children, in such case it shall and may be lawful for the administrator of such deceased person to borrow on mortgage giving the premises for security, any sum of money, not exceeding one third of the value thereof; or to sell and convey such part or parts of the said lands or tenements as the general court shall in either case from time to time think fit to allow, order, and direct, for defraying the just debts, maintenance of the children, and for putting them apprentices and teaching them to read and

Certain cases in which adm'rs may borrow money on mortgage, &c.

or sell part of estate by order of G. C.

Proviso.

write, or for the improvement of the
 dence of the estate if any there be, to the
 advantage. *Provided* that the general court
 shall make no such order unless the administrator shall together with his petition file a true and just account upon his, her or their oath or affirmation of all the intestates debts which shall then be come to his, her or their knowledge, together with the inventory and appraisement and lists of sales. And that before any such sale be made, the general court shall order a sufficient number of advertisements to be made out by the clerk, giving notice of the lands to be sold, and of the time and place, which notice shall be delivered to the sheriff of the district, whose duty it shall be to put them up in the most public place in the district, at least fifteen days before the time of sale, and the administrator making such sale shall bring his proceedings to the next general court, after the sale made, together with an oath or affirmation, that such administrator did not become a purchaser of such land himself, that they were not purchased for his use and that he is in no way interested in the purchase thereof. And lands, tenements, and hereditaments so as aforesaid sold by order of the general court, shall not be liable in the hands of the purchasers for the debts of the intestate.

Judge of probate to give copies of bond, &c.

• Sec. 57. The judges of probate shall give to any person that requests the same, upon payment of the legal fees, a true copy of any bond given by administrators or executors in

performance of this act, and to produce the original in court upon any trial, that shall be made for the breach of any of them, if required by the court.

Sec. 58. Any executor, administrator or guardian may by the leave and direction of the orphans court put out the minors' money at interest, upon such security as the orphans court shall allow of; and if such security for the same be *bona fide* and without fraud, shall happen to prove insufficient, it shall be the minor's loss. But if no person can be found by the person as afore-said, who may be willing to take the said money at interest, then the said executors, administrators or guardians shall only be responsible for the principal money, until it can be put out at interest as afore-said. *Provided* that the day of payment of the money so to be put out at interest at any time shall not exceed one year from the date of the obligation, or other security given for the same. And executors, administrators or guardians shall not be liable to pay interest but for the surplusage of the decedent's estate remaining in their hands or power, and belonging to the minor, when the accounts of their administrations are or ought to be settled and adjusted before the said orphan's court.

Minor's money may be put out to interest by order of orphans court.

Proviso.

Sec. 59. The law of this territory entitled "a law establishing a court of probate" shall be and the same is hereby repealed.

Former law repealed.

The foregoing is hereby declared to be a law of the Territory of Louisiana, to take

This law when in force

effect and be in force from and after the first day of September next.

In testimony whereof we, Frederick Bates, Secretary of the Territory of Louisiana, and John B. C. Lucas and Otho Shrader, judges in and over the said Territory, have hereunto set our hands at the town of St. Louis, the fourth day of July, in the year of our Lord one thousand eight hundred and seven, and the Independence of the United States the thirty-second.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

Establishing Orphans Courts.

Orphans
court estab-
lished.

by whom and
when to be
holden—

BE it enacted by the Legislature of the Territory of Louisiana, That the judges of the court of common pleas in each district of this territory, or so many of them as are or shall from time to time be enabled to hold those courts, shall have full power, in the same week that they are, or shall be by law directed to hold the same courts, or at such other time or times as they shall see occasion, to hold and keep a court of record in each district, which shall be styled "The Orphans Court," and to award process, or cause to be

come before them, all and every such person and persons, who as guardians, trustees, tutors, executors, or administrators, or otherwise, are or shall be entrusted with, or any wise accountable for any estate real and personal, belonging to any orphan, or person under age, and cause them to make and exhibit within a reasonable time, true and perfect inventories and accounts, of the said estates, and to exercise and perform all an every other authority and duty assigned to the said court by law. And the clerks of the courts of common pleas shall be *ex officio* clerks of the said orphans court.

Sec. 2. The judges of the said orphans court shall have power to admit orphans or minors, above the age of fourteen years, when and as often as there may be occasion, to make choice of guardians and tutors and appoint guardians, next friends or tutors over such as are under the age of fourteen years. And at the instance and request of the said executors, administrators, guardians or tutors, to order and direct the binding out of minors apprentices to trades, husbandry or other employment, as shall be thought fit. And all guardians and next friends, which shall be appointed by any of the said orphans courts, shall be allowed and received without further admittance to prosecute and defend all actions and suits relating to the orphans and minors, as the case may require, in any courts of record in this territory.

To admit and appoint guardians, etc.

Sec. 3. If any person duly summoned to Person summoned

moned before
orphans
courts, and
not attending
may be at-
tached for
contempt,
etc.

appear in any of the said orphans courts, ten days before the time appointed for their appearance, shall make default, the judges may send their *attachments for contempt*, and may force obedience to their warrants, sentences and orders, concerning any matter or thing cognizable in the same courts, by imprisonment of body, or by sequestration of lands and goods, as fully as any court of equity may or can do.

Appeal from
orphans
court to G.
court allow-
ed:

Sec. 4. *Provided* that if any person or persons shall be aggrieved with any definitive judgment or sentence of the said orphan court, it shall be lawful for them to appeal from the same to the general court, which appeal, upon security given as in other cases shall be granted accordingly.

Receipts of
guardians,
etc. for heir
wards, etc. to
be binding
etc.

Sec. 5. If any executor, administrator or guardian, or trustee, shall receive and give discharges, for any sums of money, debts, rents or duties belonging to any orphan or minor, for whom they were, or are intrusted, all such discharges or receipts, shall be binding to and upon the orphan or minor, when he or she attains to full age, and his heirs, and shall be most effectual in law to discharge the person or persons that take the same.

Minor attain-
ing full age
and received
his due to ac-
knowledge
the same in

Sec. 6. When any of the said minors attain to their full age, that is to say, when they arrive to the age of twenty one years, and the person or persons so as aforesaid intrusted or concerned for them, having rendered account

to the orphans court, according to law, and orphans
 paid the minors their full due, then such mi- court.
 nors shall acknowledge satisfaction in the
 said court. But in case any of them refuse
 to do so, then the said court shall certify how
 the said persons concerned have accounted
 for mtd paid, which shall be a sufficient dis-
 charge to the guardians or tutors, and to the
 trustees, executors or administrators who
 shall so account and pay, and thereupon all
 bonds entered into for payment of such or-
 phans portions, shall be delivered up and can-
 celled.

Sec. 7. None of the said orphans courts, No minor or
 shall have any power to order or commit the orphan to be
 tuition or guardianship of any orphans or put under the
 minors, or bind them apprentices, to any per- tuition etc. of
 son or persons whose religious persuasions, those of dif-
 shall be different from what the parents of ferent reli-
 such orphan professed, at the time of their gion.
 decease or against the minors own mind or
 inclination, so far as he or she has discretion
 and capacity, to express or signify the same,
 or to persons that are not of good repute, so
 as others of the same religious persuasion
 may or can be found.

Sec. 8. The said orphans court shall re Guardians
 quire of every guardian or tutor, appointed etc to give
 by them in pursuance of this act, bond and bonds,
 security in double the amount of the value of
 the minor's estate, for the faithful discharge
 of his office; and also may compel such guar-
 dian to give supplemental security, if they

have cause to suspect that a surety of a guardian is falling, and if he neglects to do so the court may displace him.

Poor orphans
etc. may by
order of or-
phans court
be bound out
on certain
conditions :

Sec. 9. Every orphan and minor, who has no estate sufficient for maintenance, may by order of the orphans court, be bound to apprenticeship by his guardian until the age of twenty one, if a boy, or of sixteen, if a girl, to some master or mistress, who shall covenant to teach the apprentice some art, trade, business, to be particularized in the indenture, as also reading and writing, and if a boy common arithmetick including the rule of three, and to pay him or her a sum not less than ten dollars, and a decent new suit of clothes, at the expiration of the time, which indenture shall be approved by the court and recorded.

Orphans
courts to
have juris-
diction of
servant's
complaints
against their
masters,

and of mas-
ters against
their servants
etc.

Sec. 10. The orphans court shall at all times receive the complaints of apprentices or hired servants, who reside within the jurisdiction of such court, against their master or mistresses, alleging undeserved or moderate correction, insufficient allowance of food, raiment, or lodging, or want of instruction, and may hear and determine such case in a summary way, making such orders thereupon as in their judgment will relieve the party injured in future, or removing the apprentices, and binding them with other masters or mistresses, when it shall seem necessary. And also in the same manner hear and determine complaints of masters or mistresses against their apprentices or hired servants, for default.

tion without good cause, and may oblige the latter for loss thereby occasioned, to make retribution by further services after the expiration of the times for which they had been bound.

The foregoing is hereby declared to be a law of the Territory of Louisiana, to take effect and be in force from and after the first day of September next.

This act
when in
force.

In testimony whereof we, Frederick Bates, secretary of the Territory of Louisiana, and exercising the government thereof, and John B. C. Lucas and Otho Shrader, judges in and over the said Territory, have hereunto set our hands at the town of St. Louis, the fourth day of July, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States the thirty-second.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

Providing for the division of Districts into Townships, and for the appointment of Justices of the Peace and Constables.

BE it enacted by the Legislature of the Territory of Louisiana, That the inhabited parts of each district within this territory shall be laid out into convenient town-

Districts to
be laid out in-
to townships.

duty of commissioners.

ships. And it shall be the duty of the commissioners of the respective districts or two of them to meet on or before the first of September next, at their usual place of meeting and to continue from day to day until they have laid out their districts into convenient townships, distinguishing each township by a particular name: they shall within thirty days thereafter transmit to the governor a duplicate return containing the name and description of the bounds of each township, and the number of taxable inhabitants residing within each (to be taken from the last assessors' return) and also file with the clerk of the court of common pleas another duplicate to be entered by him on record.

Township line to include common.

number of townships limited.

Sec. 2. No township line shall pass through any town or common field, thereto belonging, but the whole of such town and common field shall be part of one township. And the number of townships to be laid out in the first instance shall not in any one district exceed six.

New townships how to be laid off and former ones subdivided.

Sec. 3. It shall be the duty of the district commissioners from time to time, when in their opinion the increasing population in any part of any district shall render it expedient and convenient, to establish one or more new townships or to sub-divide townships already established. In all which cases they shall transmit duplicates thereof within two months thereafter to the governor, and to the clerk

in the same manner as is directed in the first section of this act.

Sec. 4. The governor shall appoint and commission in every township one or more persons as justices of the peace, whose jurisdiction in criminal cases shall extend over the whole district, and in civil cases over the township for which they are respectively commissioned.

Governor to
appoint just-
ices of the
peace in each
township, &c.

Sec. 5. At the first court of common pleas held in the respective districts after the aforesaid duplicates being filed the clerk shall lay such duplicate before the court, who shall appoint in each township one reputable householder as constable. Every person so appointed shall exercise the office of constable for two years, and shall within five days enter into a bond with security to be approved of by the clerk of the court of common pleas, to the governor and his successors in office, in any sum not exceeding one thousand dollars nor less than two hundred dollars at the discretion of the court of common pleas, conditioned that such constable shall execute and return all process to him directed or delivered; and to pay the monies received by him upon the same, and in every respect to discharge the duties of a constable according to law: And shall also take an oath before such clerk faithfully to execute the duties of his office. *Provided* that if no proper person can be found who is willing to take the office of constable, the court shall appoint some re-

Court of com-
pleas to ap-
point constable for each
township—

his term of
service—

to give bond—

condition of
bond—

constable to
take oath—

Provide.

Penalty on
neglecting to
give security,
or not accept-
ing the office.

Proviso.

putable householder to fill the office of con-
stable for one year. and if any person so ap-
pointed as aforesaid upon ten days notice of
his appointment shall neglect or refuse to give
the aforesaid security, or to take upon him-
self the duties of such office, shall be liable
to a fine of twenty dollars to be assessed by
the court of common pleas upon ten days
notice being given to such person. *Provided*
also, that no person holding a civil or military
commission in this territory nor any person
above the age of fifty years shall be com-
pelled to serve as a constable; nor shall any per-
son be compelled to serve as constable in a
township oftener than once in ten years.

Constables
bond where
to be filed,
and by whom
to be sued,

proviso.

Sec. 6. Every bond given by constable
shall be filed with the clerk of the pro-
court of common pleas, and may be sued for
at the instance of any person injured by a
breach of such bond. *Provided* that if a
verdict is given for the defendant or the suit
discontinued, the person at whose instance the
suit is brought shall be liable at the discretion
of the court to pay double costs. And no
suit shall be instituted on such bond after one
year from the time for which such constable
was appointed.

Constable
may appoint
deputies.

Sec. 7. Every constable may appoint one
or more deputies for whose conduct he is to
be answerable.

Justices of
the peace

Sec. 8. The justices of the peace in every
township, or a majority of them, shall have

power to fill any vacancy that may happen in the office of constable until the next court of common pleas. may fill vacancies.

Sec 9. Every commissioner neglecting to perform the duties required of him by this act, unless prevented by sickness or other unavoidable accident, shall upon conviction be liable to a fine not exceeding the sum of fifty dollars. The said fines imposed by this law shall be paid into the district treasury of the proper district for the use of said district. Commissioner failing to perform his duties to be fined. fines appropriated.

Sec. 10. A law of this territory entitled "a law regulating the appointment of constables," shall be and the same is hereby repealed from and after the first day of December next. Former law repealed.

The foregoing is hereby declared to be a law for the Territory of Louisiana to take effect accordingly.

In testimony whereof we Frederick Bates, secretary of the Territory of Louisiana, and exercising the government thereof and John B. C. Lucas and Otho Shrader, judges in and over the said Territory, have hereunto set our hands, at the town of Saint Louis, the fourth day of July in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States the thirty-second.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER,

Y

AN ACT

Of limitation to rights of certain actions

Rights of actions limited, in certain cases.

BE it enacted by the Legislature of the Territory of Louisiana, That in all actions upon the case other than for slander, actions for accounts other than such accounts as concern the trade of merchandize between mechant and merchant, their factors and servants, actions for debt grounded upon a lending or contract without specialty, or debt for arrearages of rent, actions of trespass *quare clausum fregit*, shall be brought within five years after the first day of September next, or within five years after the cause of action shall accrue : All actions on open accounts for goods, wares and merchandizes sold and delivered or for any article in any store account ; all actions of trespass *vi et armis*, assault and battery, and imprisonment shall be brought within two years from the first day of September next, or within two years after the cause of action shall accrue : actions on the case for words one year after the words spoken, and writs of error shall be brought within five years after the first day of September next or within five years after the judgment or order complained of shall be rendered and not after.

Proviso in favour of certain persons.

Sec. 2 *Provided* that if any person is entitled to any of the before mentioned actions he be at the time of the cause of action accrued

ed within the age of twenty one years, a married woman, of unsound mind or imprisoned, or beyond sea, or absent from the United States, such person may bring such action within such times as are before limited after the respective disabilities are removed. And *provided also* if in any of the before mentioned cases any plaintiff obtains a judgment, which upon appeal or writ of error shall be reversed or any plaintiff shall suffer a non suit, such plaintiff, his heirs, executors, or administrators, as the case may require, may commence a new action or suit from time to time, within one year after such judgment reversed or non suit suffered as aforesaid, and not after.

further proviso.

Sec. 3. All actions, suits, indictments or informations which shall be had, sued or exhibited upon any penal law of this territory, the punishment whereof shall be fine and imprisonment, shall be brought within two years after the first day of September next or within two years after the offence committed against such act, and not after.

Rights of actions on certain penal laws limited.

Sec. 4. *Provided* that if any defendant to any civil or criminal cause herein before recited absconds or conceals himself, or by removal out of the district or territory where he resided when such cause of action accrued, or by any other indirect means, defeats or obstructs the bringing or maintaining all or any of the aforesaid actions, within the respective times limited by this act, such defendant shall not be permitted to plead this

Certain cases to which the limitation in this act shall not extend.

act in bar, to any suit, action, indictment or information.

When this
act to be in
force.

Sec. 5. This act shall be in full force from and after the first day of September next.

The foregoing is hereby declared to be law of the Territory of Louisiana, to take effect accordingly.

In testimony whereof we, Frederick Bates, secretary of the Territory of Louisiana, and John B. C. Lucas and Otho Shrader, judges in and over the said Territory, have hereunto set our hands at the town of Saint Louis, the fourth day of July, in the year of our Lord one thousand eight hundred and seven, and the Independence of the United States thirty-second.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

Directing the method of proceeding against absent and absconding debtors.

Foreign at-
tachments
may be
granted by

BE it enacted by the Legislature of the Territory of Louisiana, That the judges of the respective courts of common pleas within this territory shall and are hereby

empowered to grant writs of *foreign attachment* against the estate real and personal of any person who is indebted to another and is not resident or residing within this territory : which attachment so granted shall be duly served by the respective sheriffs upon the goods and chattels, lands and tenements of such person or persons against whom the same shall be awarded, in whose hands or possession the same shall be found, returnable to the next succeeding court, respectively where the party may proceed to trial, and shall have judgment granted the second term after the effects are seized.

judges of
com. pleas—

what property
liable
thereon.

when to be
returned, &c.

Sec. 2. The person or persons whose goods or effects are so attached shall be defendant in the attachment ; and the person in whose hands or possession the same goods or effects are attached shall be called the *garnishee*, and shall be obliged to appear in court at the return of the attachment and answer what shall be objected against him and abide the judgment of the court, and shall be allowed out of the effects reasonable compensation for his attendance.

Garnishee to
to appear in
court and an-
swer &c.

Sec. 3. The manner of executing such writs of attachment shall be by the officers going to the house, or to the person, in whose hands or possession the defendants goods or effects are supposed to be, and then and there declaring in the presence of one or more creditable persons of the neighbourhood that he attacheth the same goods or other effects, from and after which declaration the goods,

How such
writs are to
be executed.

after special
bail entered
the garnishee
to be dis-
charged.

proceeding
where gar-
nishee pleads
no effects in
his hands and
plaintiff
proves the
contrary—

money or effects so attached shall remain in the officer's power, and be by him secured in order to answer and abide the judgment of the court in that case, unless the *garnishee* will give security therefor. And if the plaintiff in the attachment obtain a judgment and execution for the money and goods in the *garnishee's* possession, yet the defendant in the attachment, or his, her or their agent may at any time before the money be paid, put in special bail to the plaintiff's action upon which the attachment is grounded whereby the *garnishee* shall be immediately discharged. And if an attachment shall be made for goods or effects and the *garnishee* plead he has no goods or effects in his hands at the time of the attachment, or any time after, and the plaintiff prove the contrary, the court or judge in such case either party require a jury, the jury in such case being satisfied that the proof is plain and full, shall find for the plaintiff, and they shall find what goods or effects they find in the *garnishee's* hands. Whereupon judgment shall be entered that appraisement be made of the said goods or effects, so found by the court or jury, as the case may be, and a precept shall be granted requiring the sheriff to seise the same appraised; and if the *garnishee* will not produce them, then execution shall be forthwith awarded for the value thereof according to the appraisement to be levied on the goods, chattels, lands and tenements of the *garnishee*.

Sec. 4. *Provided always*, that no order shall be made for the sale of property seized on a *foreign attachment*, unless the plaintiff shall make affidavit that the demand stated in the declaration is just, and that the plaintiff shall enter into a bond with security to be approved of by the court in double the sum claimed by him to the defendant, conditioned that if the defendant in the attachment shall within a year next following by himself or attorney come into court, and disprove or avoid the debt recovered by the plaintiff against him, or shall discharge the same with costs, that then the plaintiff shall return to the defendant the goods and effects, or value thereof, by the plaintiff attached and condemned, or so much thereof as shall be disproved or discharged.

No order for sale to be made, till plaintiff swears to his demand,

and gives bond—

condition of bond.

Sec. 5. If it shall appear by the oath or affirmation of any creditor or creditors or any other creditable person for him or them that his or their debtor has so absented himself, or absconded from his usual place of abode or shall confine himself in his own house or conceal himself elsewhere that the ordinary process of law cannot be served on him, in either of those cases it shall and may be lawful for any creditor whose demand shall exceed the sum of fifty dollars, to apply to the clerk of the court of common pleas for the proper district for a writ of *domestic attachment*; and it shall be the duty of such clerk before the issuing of such writ to take from the per-

Clerk of com. pleas may issue writs of domestic attachment in certain cases.

Clerk. to take bonds of plaintiff

condition of
bond.

on breach of
condition,
bond to be
given adverse
party,

to sue,

son applying a bond with sufficient security in double the sum that may be demanded by the creditor or creditors in his or their affidavit conditioned for the proving of his or their debts as well before the auditors as upon a trial at law in case the due issuing forth the said writ shall be contested. And if such debt shall not be really due, or if it is proven that the said writ did not issue according to the true intent and meaning of this act then the clerk shall upon an order from the court in case there be occasion deliver such bond to said party who may sue thereon, and recover such damages under the penalty of the same as upon a trial at law, he shall make appear he has sustained by reason of any breach of the conditions thereof.

Domestic at-
tachment
how to be ex-
ecuted.

garnishee's
duty—

Sec. 6. All writs of *domestic attachment* shall be executed in the same manner as is provided in this act respecting *foreign attachment*: and every *garnishee* shall be obliged to appear and answer and be proceeded against as is provided for in this act respecting *foreign attachments*.

Defendant
entering spe-
cial bail, may
dissolve at-
tachment.

Sec. 7. The defendant in any writ of *domestic attachment* by himself or agent may at any time before distribution has been made by the auditors herein after named put in special bail to the action of the plaintiff, who obtained such writ of attachment, whereupon such attachment shall be dissolved and the property attached restored to the defendant.

Sec. 8 No second or other attachment shall be issued against or served upon the estate or effects of of the same defendant unless the first attachment be not executed or shall be dissolved by the court.

second at-
tachment not
to issue un-
less—

Sec. 9 As soon as the court has accepted the sheriffs return of any writs of *domestic attachment*, the court shall nominate three honest and discreet house keepers of their district, to audit the accounts of all the defendants creditors, and to adjust the demands not only of the plaintiff in these attachments, but of all the rest of the defendants creditors, and settle their shares or proportions of the defendant's whole estate, real and personal, and exhibit a true report of their proceedings therein to the judges of the court next after such appointment for confirmation. And the judges are hereby empowered and required to allow reasonable compensation to the said auditors out of the goods or effects attached as aforesaid as a reward for their trouble.

Court to ap-
point 3 audi-
tors—

their duties,

and compensa-
tion—

Sec. 10. It shall be lawful for the auditors so as aforesaid to be appointed or a majority of them, to examine such persons as they shall think fit upon interrogatories or otherwise on oath or affirmation, which they are hereby empowered to administer touching the lands, tenements, goods, chattels, or effects of the said defendants, and such other things as may tend to disclose their estates or their secret grants, or alienating of their ef-

their powers

facts. And the said auditors may by warrant under their hands cause to be broke open any houses, chambers, shops, ware houses, doors, trunks or chests of the said defendants, where their goods or effects shall be, or reputed to be, and seize the same for the use of their creditors.

Penalty for making fraudulent claim

Def. may appear before auditors and contest claim

mode of procedure where party is aggrieved by the decision of auditors,

Sec 11. If any person shall fraudulently or collusively claim any debts, or claim or detain any real or personal estate of the defendant in any *domestic attachment*, every such person shall forfeit double the value thereof, to and for the use of the creditors. It shall be lawful for the defendant in any writ of *domestic attachment* named, by himself or agent to appear before the auditors and contest the validity of any claim that may be exhibited against him. And the said defendant as well as any creditor thinking himself aggrieved by the determination of the said auditors, may petition the court from which the writ issues, setting forth such facts, and the determination thereon, with the complaint of the party and the prayer for a trial in court, and if either party require it the court shall cause a jury to be empannelled for the trial of these facts, and judgment being given by the court on the law and the fact, or on the verdict of the jury, shall be final on the facts and the auditors shall proceed agreeably thereto.

Auditors may sell the

Sec 12. It shall and may be lawful to and for the said auditors or a majority of them,

make sale and assurance of all the lands and tenements, goods and chattels belonging to such defendants, or otherwise to order the same for satisfaction of their creditors ratably, according to the quantity of their respective debts, and every direction, bargain, sale or assignment, done by the said auditors, concerning the premises, pursuant to this act, shall be good, and effectual in law against the said debtors, their heirs, executors and assigns. And it shall and may be lawful for a majority of the said auditors to grant and assign, or otherwise to order or dispose of, all or any of the debts, due or to be due, to or for the benefit of the said defendant, to the use of their creditors. And the same grant, assignment or disposition of the said debts so to be made, shall vest the property, right and interest thereof, in the person or persons, of him, her or them to whom it shall be granted, assigned, or ordered by the auditors; so that such assignees may sue for and recover the said debts in their own names and detain the same to their own use. And after such grant assignments or disposition made of the said debts, neither the said defendants nor any other to whom such debts shall be due shall have power to recover the same nor to make any release or discharge thereof.

estate of defendant, &c.

such sale to be valid.

may assign debts--

assignees may sue for such debts in their own names.

Sec. 13. The persons nominated as auditors shall give public notice thirty days before the sale or disposition of such goods or effects as aforesaid by public advertisement in some newspaper printed within this terri-

Auditors to give public notice of sale.

tory, or if there is no newspaper printed, then by public advertisement affixed on the door of the court house of the district where the said writs issued, and at the doors of the court-houses of every adjoining district.

Auditors
may sell es-
tate which
defendant
has hereto-
fore sold con-
ditionally.

Sec. 14. If the said defendants have heretofore granted, conveyed, or assured, or shall at any time hereafter grant, convey or assure, any lands, tenements, hereditaments, goods, chattels or other estate unto any person or persons, upon condition or power of redemption, at a day to come by payment of money or otherwise, it shall and may be lawful to and for the said auditors, or a majority of them, before the time of performance of such condition to assign and appoint under their hands, such person or persons as they shall think fit to make tender or payment of money or other performance according to the nature of such condition, as fully as the said defendants ought to have done. And the said auditors shall after such tender, payment, or performance, have power to sell and dispose of such lands and other estate so assured upon condition to and for the benefit of the creditors as aforesaid.

Overplus of
defendant's
estate to be
returned.

Sec. 15. The overplus of the said debtors estate, if any be, after all their debts and lawful charges are deducted shall be returned to such debtors, their executors or administrators.

Garnishee to
answer on

Sec. 16. It shall and may be lawful to and for every plaintiff in any writ of *foreign or*

domestic attachment, to be issued by virtue of this act out of any court within this territory, after judgment hath been duly obtained against the defendant or defendants therein respectively named, to prepare and exhibit in writing all and singular such interrogatories upon which the plaintiff or plaintiffs shall be desirous to obtain and compel the answer and answers of any *garnishee*, in whose hands the said writ of attachment shall be laid and served touching the goods, chattels, monies, effects and credits of the said defendant and defendants in his or their possession, custody and charge, or from him or them respectively due and owing at the time of the service of such writ or writs of attachment, or at any other time. And the said interrogatories so prepared and exhibited, the said plaintiff or plaintiffs shall file in the proper court out of which the said writ or writs of attachment respectively shall issue. And each and every such *garnishee* to whom a copy of such interrogatories shall be delivered is required and enjoined to be and appear before the judges of the same court on a day of time by them for that purpose to be named, and then and there in writing exhibit and file under his oath or affirmation (when the clerk of the proper court is hereby authorized and required to administer) full direct, and true answers to all and singular the interrogatories by the said plaintiff and plaintiffs respectively prepared, exhibited and filed in the manner herein before directed and described. And if any *garnishee* or *garnishees* shall neglect or refuse so to do, then

oath in certain cases.

mode of procedure.

garnishee refusing to answer.

oath, and judgment to be given against him for whole amount, etc.

and in every such case it shall and may be lawful for the judges of the proper court and they are required to adjudge that such *garnishee* or *garnishees*, for neglecting or refusing as aforesaid, hath or have in his or their possession, custody, and charge, goods, chattels, moneys and effects of the said defendant or defendants in such writ of attachment respectively named, or is or are indebted to such defendant or defendants to an amount and value sufficient to pay and satisfy the debt, claim or demand of the said plaintiff or plaintiffs, together with all legal costs and charges of suit: and thereupon grant writ of execution against such *garnishee* or *garnishees* in the same manner as if a judgment had been regularly pronounced and entered in pursuance of the verdict of a jury, or in virtue of the confession of the party.

Certain cases in which a clause of *capias* shall be inserted in the attachment against the *garnishee*

Sec. 17. If any plaintiff in any writ *foreign* or *domestic attachment* to be issued within this territory in pursuance of this act shall upon oath or affirmation declare, that he verily believes that any persons upon whom any writ of attachment shall be directed to be served as *garnishee* hath any goods, chattels or effects belonging to the defendant in his hands, or possession, or under his care, or is indebted to the defendant or defendants in any sum of money, although the same shall not then be due, and shall also in the manner aforesaid declare, that the person upon whom such writ of attachment shall be

directed to be served as *garnishee*, is not an inhabitant of the district within which the same shall issue, or that he verily believes that there is just cause to fear, that such person is about to depart and remove from the same, it shall and may be lawful for the plaintiff to cause to be inserted in the body of the writ of attachment, a clause of *capias* against such person as aforesaid, upon whom the same shall be directed to be served as *garnishee*, and he shall thereupon be held to sufficient sureties to appear at court, and to make answers as by this act is directed, and further render his body to the prison of the proper district, or to pay the condemnation money if judgment shall be passed against him.

Who shall
be held to
security.

The foregoing is hereby declared to be a law of the Territory of Louisiana, to take effect and be in force from and after the passage thereof.

In testimony whereof we, Frederick Bates, secretary of the Territory of Louisiana, and exercising the government thereof, and John B. C. Lucas and Otho Shrader, judges in and over the said Territory, have hereunto set our hands at the town of Saint Louis, the fourth day of July, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States of America the thirty second.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

Ascertaining the Fees of the several offices and persons therein named, and regulating the payment of costs on indictments.

B ^{It} is enacted by the Legislature of the Territory of Louisiana, That no officer or person shall at any time exact or demand for services hereafter to be rendered any larger fee than is hereafter provided.

Sec. 2. The attorney general or his deputies where the duty is performed by the in the general court, and the several courts of oyer and terminer and quarter sessions,

For every indictment returned "not a true bill" by the grand jury, to be paid out of the district treasury or by the prosecutor 2 00

For every indictment returned "a true bill" by the grand jury in a capital case, to be paid out of the defendant's estate if convicted or out of the district treasury if acquitted or the defendant's estate is not sufficient to pay the same 15 00

For every indictment returned "a true bill" by the grand jury in all other criminal cases where the defendant is acquitted, to be paid by the prosecutor, or out of the district treasury 6 00

For every indictment returned "a true bill" by the grand jury in all other

Repeals

2000

Fees of the attorney general and his deputies.

Alt this Act

speaks, except

24.4" 11.4 20"

it is

at 182122-1267

D.C.

criminal cases where the defendant is convicted, to be paid by the defendant,

8 00

For every indictment removed from the court of quarter sessions into a superior court, in addition to the last item

4 00

For every information, the General court shall have power to tax the attorney general's fees, to be paid upon conviction by the defendant, and upon acquittal by the district or territory.

Sec. 3. Counsellor's and attorney's fees in the general court and courts of common pleas.

Counsellor
and attorney's
fees.

For making out a *præcipe* and filing a declaration if the suit is ended before judgment obtained

3 00

Where judgment is obtained, in addition to the last item

3 00

Where a suit is removed from the court of common pleas to a superior court and judgment obtained in addition to the first item

4 00

On a writ of error prosecuted to final judgment

5 00

On a judgment upon *demurrer*, and when a *repleader* is awarded or where an interlocutory judgment is opened

3 00

In all *certiorari's* to remove proceedings had before justices of the peace and appeals from the same prosecuted

A a

3^d Sec.
H. P. H. W.
by act 1821-22

ed in the courts of common pleas to
final judgment 3 00

Provided that only the attorney of
the party in whose favour the suit is
decided shall be entitled to a fee to be
taxed with the bill of costs.

Rep.
Clerks of
gen court,
com pleas,
oyer & ter
miner, and
quarter ses-
sions' fees.

Sec. 4. Fees of the clerk of the ge-
neral court, the clerks of the common
pleas oyer and terminer, and quarter
sessions,

For drawing, sealing and entering eve- ry original and judicial writ, filing the same, and docketing the return	1 0
For filing every declaration, plea, af- fiavit, or other paper in a cause	0 10
Entering every appearance	0 10
Entering every motion and rule	0 20
Swearing and entering a jury	0 50
Swearing each witnesses and constable	0 0
Taking the verdict of a jury and en- tering the same on record	0 25
Entering judgment	0 25
Entering <i>retraxit</i> , discontinuance or non suit	0 50
Copies of record, for every ten words	0 1
Entering satisfaction of record	0 25
Searching the record within a year	0 25
And for every year back	0 12 1/2
Filing bail bond or entering special bail	0 25
Every continuance of cause	0 25
Every issue joined	0 25
Attending and striking a special jury,	

and delivering a copy thereof to each party	0 75
Every trial had before the court without a jury	0 50
Every rule of reference for trial, to shew cause, to take depositions, give security for costs	0 25
Copy of the same if demanded without seal	0 25
Commission to take depositions	1 00
Copy of interrogatories annexed thereto for every ten words	0 1
Entering appeals from inferior courts, ejectments, and amicable suits	0 50
Every subpoena with four names or any less number	0 50
Every indictment returned by the grand jury	0 50
Taking recognizances in criminal cases,	0 25
Every submission	0 25
Filing bill of exception or demurrer	0 25
Bringing a particular record into court	0 25
Entering report of referees	0 10
Surrender of principal in court by special bail	0 25
Filing jailor's receipt and entering exoneretur	0 25
Discharging recognizance	0 10
Entering a judgment confessed and warrant of attorney	0 50
Taking constable's bond	0 50
All the services attending the licensing of a ferry and granting the certificate	1 00

All the services attending the licensing of a tavern and granting the certificate	1 0
Reading, filing and entering on record a petition for a road, and recording the order of the court made thereupon, to be paid by the party applying	Q 5
For the copy of the order for every ten words	Q 01
For the copy of the return and plat for every ten words	Q 0
Every copy of an order to open a road for every ten words	Q 0
Taking and entering on record the acknowledgment of a sheriff's deed, certificate and seal	1 00
Issuing process in criminal cases	Q 6
Every certificate and seal	Q 5
Entering any plea in a civil or criminal case	Q 1
Sec. 5. Sheriffs fees in the general court, courts of oyer and terminer, common pleas and quarter sessions,	
For serving every summons, or declaration in ejectment and returning the same	Q 80
If more than one defendant, for each	Q 40
Serving every <i>capias</i> and taking into custody	1 00
If more than one defendant, for each	Q 30
Taking and returning every bail bond	Q 50
Serving all writs of <i>scire facias</i> in criminal cases or attachment	1 00

Sheriff's fees

	D C.
Serving an execution	1 00
Summoning and returning a jury	0 75
Attending a view per day	1 50
Executing a writ of possession	2 00
Calling every action	0 10
Executing writ of inquiry, drawing inquisition, and returning the same	1 50
Every person committed to the com- mon jail	0 50
Turn keys fees on commitment for an offence or criminal matter, to be paid on the discharge of the priso- ner	0 50
Turn keys fees to be paid on discharge of prisoner for debt above fifty dol- lars	0 50
If for under fifty dollars	0 33
Serving subpoena on each witness	0 33
Serving any notice or rule of court	0 33

Commission for receiving and paying money on an execution where lands or goods have been taken into custody, advertised and sold, or where the defendant's body has been taken for want of lands, tenements, goods and chattels, 5 per cent on the first three hundred dollars, and two per cent on all sums above that; and one half of such commission where the money is paid to the sheriff without seizure, or where the lands or goods seized or taken shall not be sold. And no other fee or reward shall be allowed upon any execution except for the expence of keep-

ing and removing the property taken.	
For every trial in a criminal cause or confession	1 35
Every capital cause and <i>committitur</i>	3 00
Executing every death warrant	10 00
Return of no goods or not to be found	0 50
Travelling expences each miles going and returning upon the service of every writ to be computed from the court house of the district to the dwelling house of the defendant	0 05
Travelling expences on the service of a subpoena, going and returning each mile, which is to be computed from the court house of the district to the dwelling house of the witness	0 05

Provided also, That for every writ, execution, or subpoena issued out of the general court no more mileage shall be allowed, than if the writ had issued out of the court of common pleas of the proper district. And it shall be the duty of the party on whose application such writ, execution, or subpoena has issued to cause the same to be returned to the general court without fee unless the general court shall for special reason, order the personal attendance of the sheriff, in which case he shall be allowed four cents each mile going and returning from the court house of the district to the place where the general court is held. *And pro-*

vided also that if more persons than one are named in any writ or subpoena the travel shall be computed from the court-house to the place of service which shall be the most remote, adding thereto the extra travel which shall be necessary to serve it on the other or others.

Sec. 6. Witnesses' fees

For attending in his own district at any court of record, per day . . .

0 50

Witnesses' fees.

Attending from a foreign district, per day

0 75

The same fees as are allowed a witness per day, while attending shall be paid to him for every twenty miles he is obliged to travel in going and returning from his place of abode to the place where the court is sitting.

Attending the trial of a case before a justice of the peace

0 25

Sec. 7. Coroner's fees,

For the view of a dead body . . .

3 00

Coroner's fees.

Each juryman that sits on the inquest

0 50

Summoning and qualifying each witness

0 20

Witnesses the same allowances as in courts of record.

The fees of the coroner's inquest shall be paid out of the lands, tenements, or chattels of the slayer in case of murder or manslaughter, if he hath

any, otherwise by the district, with mileage from the court house to the place of viewing the body, each mile going and returning . . . 0 05

In all cases in which the coroner performs the duties of a sheriff he shall be entitled to the same fees as are hereby allowed the sheriff and the same mileage.

Jurors' fees.	Sec. 8. Jurors' fees.	
	Each juror sworn in each action	0 25
	Every juror attending a view per day	0 50

Judge of probate's fees.	Sec. 9 Fees of the probate.	
	For administering an oath	0 12½
	For all copies of records in his office	
	for every ten words	0 01
	For a citation under seal	0 75
	For granting letters of administration	
	or testamentary	2 00
	For taking and filing renunciation	0 50
	For the probate of a will	1 50
	For drawing and taking bonds from	
	executor or administrator	1 00
	For proving a codicil if separate from	
	the will	1 00
	For examining administrators or ex-	
	ecutors account, and advertising the	
	same	2 00
	For filing any paper in his office	0 20
	For a search	0 20
	For causing any last will and testament	
	or any other paper required by law	
	to be registered, for every ten words	0 01

Sec. 10. Fees of justices of the peace.

D.C.

Fees of justices of the peace.

For every warrant in a criminal case	o 20
Every recognizance	o 20
Administering an oath or affirmation	o 10
Every summons or capias in a civil case	o 15
Every subpoena with one name	o 15
Every name inserted after	o 05
Entering every judgment in a civil case where there is a trial	o 20
Every judgment by confession of defendant	o 10
Every execution	o 20
Certified copies of all proceedings on appeals and certiorari	o 33
Entering every rule of reference and to take depositions on docket	o 15
Recognizance of bail in civil cases	o 15
Issuing bail piece	o 20
Swearing witness or arbitrator	o 10
Issuing <i>scire facias</i> against special bail, or to revive a judgment after a year and a day	o 20
Acknowledgment of a deed and power of attorney	o 50
Publishing bands of matrimony	1 00
Administering oath or affirmation, and signing depositions if ready	o 20
If written by the justice, per line of ten words	o 01

Provided it shall be the duty of every justice of the peace or judge of any court of record, within this terri-

Provide as to the manner certifying

oaths, &c.

tory before whom a deposition in writing is taken, to cause the witness making such deposition, oath, or affirmation to subscribe his or her name thereto, in presence of such judge or justice, or in case he or she cannot write his or her name, to cause him or her to set his or her mark thereto, and for the judge or justice to certify that such deposition has been sworn or affirmed to, and subscribed in his presence.

Notaries
public's fees.

Sec. 11. Notaries public's fees.

For protest of a bill of exchange registering seal	1 00
Attesting letter of attorney and seal	0 50
Notarial affidavit to an account under seal	0 50
Registering foreign bill protested with certificate	0 50
Registering protest of bill of exchange on promissory note for non acceptance or non payment	0 50
Noting a bill of exchange, note or other properly protestable either for non acceptance or non payment	0 50
Drawing and certifying affidavit before a justice of the peace	1 00
Each oath or affirmation	0 20
Drawing or taking acknowledgment or proof of substitution to a letter of attorney	1 00
Being present at a demand, tender or deposit and noting the same	1 00

1st Sec. Not. Rep.

D C.

Certificates of copies or papers ready made	o 50
Comparing the same for every one hundred words	o 10
Taking proof of debts to be sent abroad, proof and acknowledgment of letters of attorney for receiving and transferring public securities each	o 75

Sec. 12. Recorder's fees.

	Recorder's fees.
For recording any deed, mortgage or other instrument per sheet of one hundred words	o 15
For copies of any record the like fees, Certificate and seal	o 20
Every search	o 20

Sec. 13. Fees of the clerk of the orphans court.

	Fees of clerk of orphans court.
For reading and filing every petition and recording the order made thereon	o 50
Copy of any record per sheet of one hundred words	o 10
Entering settlement of accounts of executors or administrators	o 75

Sec. 14. Constable's fees.

	Constable's fees.
For serving a warrant or summons for debt or damages	o 25
Summoning a witness	o 10
Serving a warrant in a criminal case	o 33
Carrying a criminal or debtor to jail each mile in going and returning	o 05

Serving an execution 0 25
 For every mile he is obliged to travel
 in executing any process civil or cri-
 minal 0 05

Provided that in summoning wit-
 nes and arbitrators in any cause, he is
 only to have circular mileage, to be
 computed from the house of the jus-
 tice to the witness or arbitrator who
 shall reside most remote, adding there-
 to the extra travel which shall be ne-
 cessary to serve it on the others.

Serving notice on arbitrator 0 10

Selling goods five per centum on all
 sums exceeding five dollars which
 may be contained in any execution,
 chargeable to the person against
 whom it may issue.

Summoning and returning each jury-
 man to a coroners inquest 0 10

Cryer's fees.

Sec. 15. Cryers fees in the several
 courts of record.

For calling a jury in each cause 0 50
 calling each witness 0 05
 calling every verdict 0 10
 calling every action 0 10
 discharging every person by pro-
 clamations 0 10

**Court to al-
 low and tax
 certain fees.**

Sec 16 For any services performed by
 the clerk of any court or by any sheriff for
 which no fees are provided by law, it shall
 be lawful for the court to allow and tax to
 their respective clerks, and sheriffs, a reason-

able compensation, to be proportionate to the fees provided by this law for similar services.

Sec. 17. It shall be lawful for the clerks of the respective courts to make out once a year, fee bills in all such suits where the plaintiff has taken no steps for two courts successively to bring his suit to an end, or neglect to take out an execution for one term after judgment rendered, and to deliver such fee bill to the sheriff, to be by him demanded from the plaintiff or plaintiffs. And if such person shall neglect or refuse to pay the same, within twenty days after demand, the sheriff shall and may levy such fees on the goods and chattels, of the said plaintiff or plaintiffs.— And if the sheriff neglects or refuses, to pay the monies due to the clerk, within three months after any fee bill has been delivered to him, the court may upon ten days notice to the sheriff, on motion, give a judgment and award execution for the amount of such fee bill or fee bills, and the sheriff shall be allowed by the clerk ten per centum for collecting.

Clerks may issue fee bills in certain cases,

Sheriff to collect them—

penalty for neglect of duty by sheriff.

his compensation for collecting.

Sec. 18. In all cases not provided for in the preceding section, the clerks fees shall await the end of the suit, and be collected with the debt or damages, for which judgment is rendered, or an execution may issue for such costs alone including all the legal costs accrued in such suit.

certain cases in which the costs shall await the event of the suit.

Fees to be
entered on
execution.

items of
them in a
book,

which is to
be evidence.

Prosecutor
to be endors-
ed on bills of
indictment
for assault,
&c.

Who is to
pay costs in
certain cases.

Proviso.

Sec. 19. The clerk shall endorse on every execution the fees due to each officer distinctly, and shall at the time of issuing an execution, or fee bill, or of receiving any fees due to him by any party or other person enter in a particular book, the several items for which he has charged, and deliver to any person from whom such fees are due on demand a copy of the entry made in the said book and whenever a suit may be instituted against any clerk for having taken illegal fees, he shall be admitted to give in evidence the book in which the entry has been made.

Sec. 20. No bill of indictment for assault, battery, or any other trespass, shall be preferred to any grand jury unless a prosecutor is endorsed thereon and if the grand jury do in any such case return the bill "not a true bill," it shall be the duty of the grand jury to decide, and to cause the foreman to endorse thereon whether the district, or the prosecutor shall pay the costs; and where the indictment is returned by the grand jury "a true bill," and the defendant on trial is acquitted the petit jury acquitting such defendant shall return, together with their verdict, whether the district or the prosecutor shall pay the costs. In all cases where the grand jury or the petit jury shall award as aforesaid, that the prosecutor pay the costs, the court shall enter a judgment for such costs against the prosecutor, and award execution for the same as is done in civil cases. *Provided* that in all cases where the grand jury has returned the

indictment a true bill, and the defendant or defendants, on his or their trial is or are acquitted, the defendant or defendants shall not be allowed compensation for the attendance of his or their witnesses. *Provided* that nothing in this section contained shall disable the prosecutor to be a witness either before the grand jury or at the trial of the defendant or defendants, but such prosecutor shall be competent to give testimony as to the facts charged in the indictment: and in all cases where two or more persons have committed indictable offence the names of all concerned shall be contained in one bill of indictment, for which no more costs shall be allowed than if the name of one person only was contained therein.

further proviso.

Sec. 21 And to the end that all persons chargeable with any of the fees in this act recited, may certainly know for what the same are charged, none of the fees herein before mentioned shall be payable by any person whatsoever until there shall be produced, or ready to be produced, unto the person owing or chargeable with the same, a bill or account in writing containing the particulars of such fees, signed by the clerk or officer to whom such fees are due, or by whom the same shall be respectively chargeable, in which said bill or account shall be expressed in words at length, and in the same manner, as the fees aforesaid are allowed by this act, every fee for which any money is or shall be demanded,

Officers to make and sign fee bills, before payment is demanded,

Officers to
set up table
of fees,

penalty on
neglect.

Sec. 22. Every officer to whom by this act fees have been allowed, shall cause to be set up in some conspicuous place in their respective offices, and there constantly kept, a fair table of their fees therein before mentioned, on pain of forfeiting two dollars for every day the same shall be missing through his neglect, which penalty shall be to the use of the person or persons who shall inform or sue for the same; and shall and may be recovered in any court of record within this territory, by action of debt or information.

Officer tak-
ing greater
fee.

how punish-
ed,

Sec. 23. If any officer hereafter shall claim, charge, demand, exact, or take any more or greater fees, for any writing or other business by him done within the purview of this act, than herein before set down, and ascertained, or if any officer whatsoever, shall charge, demand or take, any of the fees herein before mentioned, where the business for which such fees are chargeable, shall not have been actually done and performed, (to be proved by the fee book of such officer upon his oath or affirmation) such officer for every such offence shall forfeit and pay to the party injured, besides such fee or fees, six dollars for every particular article, or fee, so unjustly charged, or demanded, or taken, to be recovered with costs in any court of record in this territory, by action of debt or information. Provided, the same be sued for within twelve months after the offence shall be committed.

Sec. 24. All costs that may now have accrued shall be collected in the same manner as is provided by this law. costs accru'd how to be collected.

Sec. 25. The following laws of this territory, to wit, a law entitled "a law for ascertaining and regulating the fees of the several officers and persons therein named," and an act entitled "an act concerning the collection of bills of costs," are hereby repealed from and after the first day of September next. Former laws repealed.

The foregoing is hereby declared to be a law of the Territory of Louisiana, and to take effect and be in force from and after the first day of September next. This act when to be in force.

In testimony whereof we, Frederick Bates, secretary of the Territory of Louisiana, and exercising the government thereof, and John B. C. Lucas and Otho Shrader, judges in and over the said Territory, have hereunto set our hands at the town of Saint Louis, the seventh day of July, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States of America the thirty-second.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

Regulating the Militia.

Persons liable to militia duty—

to be enrolled by commanding officers of companies.

certain persons exempted from militia duty.

BE it enacted by the Legislature of the Territory of Louisiana, That every bodied, free, white, male inhabitant of the territory, between the ages of eighteen and forty five years, shall be liable to perform militia duty; to be enrolled by the captain or commanding officers of the company within whose bounds he may reside. It shall be the duty of the said officers respectively to enroll every such inhabitant, as also those persons who shall from time to time arrive at the age of eighteen years, as well as those persons who come to reside within his bounds or limits; and shall without delay notify every inhabitant of his enrollment by any officer or non commissioned officer of the company. Provided, that no person shall be called upon to perform militia duty who has not resided at least six months within the bounds of the proper company, except in cases of actual invasion, when any such person upon proper notice may be ordered into service by the captain or commanding officer within whose bounds he may reside, and be subject to the same fines and penalties as are hereinafter provided: And provided also, that the judges of the general court of this territory, the secretary of the territory, the attorney general of the territory, the justices of the courts of common pleas of the respective districts, all licensed ministers of the gospel, the clerk of the general court, the sheriffs of

the respective districts, all keepers of jails, and such other persons as are exempted by the laws of the United States, to wit, all post masters, the carriers of the United States mails, and ferrymen on the United States post routs, shall be and they are hereby exempted from militia duty. But it shall be lawful for any of the before-mentioned persons thus exempted, to accept of commissions in the militia, but on such acceptance they shall forfeit their privilege.

Sec. 2. *And be it enacted*, That the said inhabitants shall, under the direction of the commander in chief, be formed into regiments, battalions and companies, each regiment to be composed of two battalions; each battalion of not more than four nor less than three companies; and that each company shall be composed of not more than seventy-two nor less than thirty eight non-commissioned officers, music and privates. Provided, that when the number of militia in a district, is not sufficient for a regiment, they shall compose a separate battalion or be formed into independent companies, as the one or the other may be found most convenient. The regiments and battalions shall be numbered by the commander in chief from one upwards, and both shall rank according to their numerical designations. The officers of equal grade shall rank according to their commissions, and when there happens to be two such commissions of equal date the rank shall be determined by the field officers of the regiment.

Militia how
formed and
divided,

And officer'd Sec. 3. *And be it enacted*, That there shall be appointed and commissioned by the governor to each company, one captain, one lieutenant, one ensign; to each battalion, one major, and to each regiment one lieutenant colonel commandant. All officers shall hold their commissions at the discretion of the governor. The regimental staff shall consist of one adjutant, one quarter-master, and one pay-master, to be chosen among the subaltern officers, if fit persons can be found, one surgeon, one surgeon's mate, one serjeant-major, one quarter-master's serjeant, one drum major and one fife-major. For each battalion there shall be appointed, one serjeant-major and one quarter master's serjeant, and for each company there shall be appointed four serjeants, one drummer and one fifer. All serjeants of companies shall be nominated by the captain or commanding officer of the company, and appointed by the commanding officer of the corps. And all the non commissioned staff shall be appointed by the commanding officers of the regiments and battalions respectively.

serj'nts how
to be appoint-
ed, and non-
commis-
sioned staff.

Militia how
to be armed; Sec. 4. *And be it enacted*, That each militiaman shall provide himself within one month from the date of his enrollment, with a good musket, a sufficient bayonet and belt, or a fusil two spare flints, a knapsack and pouch, with a box therein to contain not less than twenty four cartridges suited to the bore of his musket or fusil. Each cartridge to contain a proper quantity of powder and ball,

or a good rifle, knapsack, pouch and powder horn, with twenty balls suited to the bore of his rifle, and a quarter of a pound of powder. Every enrolled person shall appear so armed, accoutred and provided when called out to muster, or into reviews, except that it shall not be necessary to appear on the parades with knapsacks, when called out for exercise only. The commissioned officers of infantry when on duty for parade, exercise, inspection or service, shall wear the uniform of the United States, and be severally armed with a sword or hanger, and the platoon officers, in addition to the sword or hanger, shall also be provided with an esponton. Every person so providing himself with arms ammunition and accoutrements, required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales, for debt or damages, or for the payment of taxes; and the said militia men, as well as the persons composing the light corps hereafter in this act mentioned, shall be exempted from arrests both going to, and returning from all parades, inspections and rendezvous by order of their superior officers or in compliance with the provisions of this act, except in cases of treason, felony, and breach of the peace. Provided, that the court for the assessment of fines, shall have power to remit any person's fine for not appearing with arms accoutrements, if it shall appear to the satisfaction of such court that the person is in so reduced circumstances as that he cannot provide himself with such arms and accoutrements.

commissioned officers of infantry to appear in uniform of U.S. how armed;

arms, &c. exempt from executions, &c.

Commis-
sioned offi-
cers to take
oath—

form.

Sec. 5. *And be it enacted*, That every officer commissioned by virtue of this act, shall before he enters on the duties of his office, take the oath of allegiance to the United States, and the following oath or affirmation, to wit: I do solemnly swear or affirm, as the case may be, that I will faithfully execute the duties of _____ in the _____ according to the best of my abilities, which oath or affirmation shall be endorsed on the back of the commission by the person administering the same.

What shall
be deemed
notice for
muster, &c.

Sec. 6. *And be it enacted*, That in all cases where the day has not been previously assigned, and particularly mentioned at the last preceding muster, which is hereby declared to be a legal notice for the troop, company, battalion, regiment or brigade to assemble on parade for muster, review or inspection, it shall be the duty of the commanding officer of the corps so to be assembled, to cause the orders to that effect to be given to the captains of the respective companies, at least ten days before the said parade, and it shall be the duty of the said captains respectively to cause three days previous notice to be given to each individual of the company either personally or in writing left at his usual place of abode. Provided, however, that when the commander in chief, the brigadier-general, the commanding officer of the regiments and battalions, for the purpose of repelling invasion or attack, or to aid and support the civil authority, shall command the service of the mili-

tia, which they are herein after authoris'd to do, such previous notice shall not be necessary, but on the contrary every person subject to military duty shall march at a moment's warning.

Sec. 7. *And be it enacted*, That the lieutenant-colonels commandant of the respective regiments, shall designate and assign the boundaries and limits of the several battalions and companies; and the commander in chief shall be authoris'd, on the representation of the said commandants, to form new companies as the population increases, or as the public interests may appear to require. The regimental parade grounds shall be fixed by the lieutenant colonels commandant respectively; the battalion parade grounds by the major, and the places at which the several companies muster and parade, shall be designated by the respective captains.

militia in certain cases shall march at a moment's warning.

Limits of regiments by whom to be fixed.

parade grounds by whom to be fixed.

Sec. 8. *And be it enacted*, That wherever by this law the power is given to the commanding officers of regiments, battalions or companies, to appoint a place for the muster review or exercise of any regiment or corps, or for the meeting of officers or courts of assize, it shall be the duty of such commanding officer to choose as central a place for such muster, review, exercise or other meeting, as the circumstances of the case will admit.

the most central place to be fixed upon therefor.

Sec. 9 *And be it enacted*, That the militia shall muster annually three times by compa-

Militia to muster annually

ally three times in each year by companies, and when—by battalions twice, and when—by regiments twice, in certain cases.

proviso.

Hour of muster—

nies in the months of April, August and November, the day to be appointed by the commanding officer of the regiments respectively, and twice annually by battalions in the months of April and October, on such days as may be appointed by general orders of the commander in chief, and by regiment twice a year, if the commander in chief or brigadier general shall order the same. Provided, that the commander in chief or brigadier general by general order may, when there is reason to believe that the actual service of the militia may be shortly required, order as many more muster days as to them shall respectively appear necessary. But no regiment shall be assembled oftener than twice in such year, no battalion oftener than six times in each year, and no company oftener than twelve times in each year.

Sec. 10. *And be it enacted.* That every officer and soldier shall appear at his respective muster field, whether regimental, battalion, or company on the day appointed by eleven o'clock in the forenoon. The officers in uniform, and armed and equipped, and the privates armed as directed by this act, and not to leave the parade until permitted by the officer commanding the corps. And it is hereby made the duty of the said commanding officers to exercise their respective corps at least three hours of each regular muster day; at every muster each captain or commanding officer of a company, shall di-

Let the first serjeant of his company to call of roll-call the roll, in his presence, between the hours of eleven and twelve o'clock, and also after the exercise is over and before the men are discharged. It shall also be the duty of such commanding officers to examine every person belonging to the company, note down all delinquencies occurring therein, and make return thereof, of the strength of the company, number of rifles, muskets, bayonets, fusils and other equipments on parade, to the commanding officer of his battalion, within ten days after such regimental, battalion or company muster: Every commanding officer of a battalion, shall at his regimental or battalion muster, as the case may be, at the hour at which the battalion is formed, proceed in like manner to call the names of the commissioned officers of his battalion, examine and note down all the delinquencies; and make a return thereof, together with the reports from commanding officers of companies, to the commanding officer of the regiment to which he belongs, within fifteen days next succeeding such regimental or battalion muster. It shall be the duty of the commanding officer of each regiment within twenty days next after a muster of his regiment to cause the adjutant of the regiment to make out a complete return thereof, agreeably to such forms as shall be furnished by the adjutant general, and transmit the same to the adjutant-general or inspector of the brigade. It shall moreover be the duty of commanding officers of regiments, battalions and

delinquents
how noted &
returned—

roll of com-
missioned of-
ficers when
called—

return to be
made to ad-
jutant-general—

and of delinquents to judge advocate.

companies, to make return of all delinquencies in their respective commands to the judge advocate, who shall lay the same before the succeeding court martial or court for the assessment of fines.

Non-commissioned officer or private acting disorderly on parade how punished.

Sec. 11. *And be it enacted*, That if any non commissioned officer or private, at a regimental, battalion or company muster, shall disobey the legal and proper orders of their superior officers; or otherwise act with disorder, or if any bye-stander at any such muster shall insult or otherwise molest any officer non-commissioned officer or private whilst on parade, or employed on any other service, authorized by the laws of this territory, the commanding officer of the regiment, battalion, troop or company as the case may be may order such person or persons to be put under guard, for any time not exceeding six hours, and the said persons shall moreover be subject to pay such fines as may be imposed in the manner hereafter in this act prescribed.

Governor to appoint an adj general; his duties—

Sec. 12: *And be it enacted*, That the governor shall appoint an adjutant-general, who shall perform all and singular the duties enjoined on an adjutant general by an act of congress entitled, "An act to provide more effectually for the national defence by establishing an uniform militia throughout the United States." and to an act in addition to the act before recited. The brigadier general shall appoint his brigade-major and inspector, and a quarter master of brigade, and the commanding officers of regiments shall appoint their regimental staff. It shall be the

brigadier general to appoint his brigade major, &c.

duty of the brigade inspector to attend the regimental and battalion meetings of the militia, during the time of their being under arms; to inspect their arms, ammunition and accoutrements, and superintend their exercise and manœuvres, and introduce the system of military discipline in this act directed throughout the brigade, agreeable to law and such orders as shall be given from time to time by the brigadier general; to make return to the adjutant-general of the state of the militia, at least once in every year, reporting therein the actual situation of the arms, accoutrements and ammunition of the several corps, and every other thing which in his judgment may relate to their government and the general advancement of good order and military discipline.

regimental staff by whom appointed—
duty of brigade inspector

Sec. 13. *And be it enacted*, That the adjutant-general may exercise the office of brigade inspector; and the brigadier-general may appoint one aid-de-camp with the rank of major. The adjutant-general shall receive as a full compensation for his services an annual salary of one hundred and fifty dollars, and the brigade inspector as a full compensation for his services an annual salary of two hundred and fifty dollars.

Adj. general may be brigade inspector
brigade gen. may appoint one aid de camp—
salary of adj. general, and of brig. inspector.

Sec. 14. *And be it further enacted*, That wherever this act may not have detailed the duties of the respective officers in relation to the discipline of the militia, such duty shall be determined by reference to Baron Steuben's Instructions, to wit: Regulations a-

Rules of discipline to be according to Baron Steuben's instructions, except

passed by Congress on the 29th day of March, 1779.

enumeration
of fines for
default of du-
ty by adju-
tant gen-
or brigade
inspector—

by comman-
dant of reg't.
commandant
of battalion,
of company,

non-commis-
sioned officer

Sec. 15. *And be it enacted*, That for com-
pelling an observance of the provisions of
this act, and for the purpose of introducing a
proper degree of subordination and discipline
in the operations of the militia of this terri-
tory, the following penalties shall be incur-
red and inflicted in the manner hereafter di-
rected, that is to say; the adjutant general
or brigade-inspector for a violation or neglect
of those duties imposed upon them by this
act, shall incur a penalty not exceeding one
year's pay, any commissioned or staff officer,
failing to perform the duties required of him
respecting the appointing and giving notice
of regimental, battalion or company musters,
or for his non-appearance at such muster in
uniform and accoutred as the law directs, or
for his failure to make those reports which by
law he is directed to make, shall forfeit and
pay as follows, that is to say; a commandant
of a regiment a sum not exceeding thirty
dollars; a commandant of a battalion a sum
not exceeding twenty dollars; a command-
ing officer of a company or adjutant a sum
not exceeding ten dollars. And those offi-
cers respectively shall moreover be liable to
be cashiered at the discretion of a court mar-
tial. Each non-commissioned officer failing
to give notice of any muster when he shall
receive orders for that purpose, without a
reasonable excuse shall be fined at the dis-
cretion of a court martial not exceeding four

any such non-commissioned officer or private failing to attend any muster, review, inspection, or for disobeying any order by virtue of this act his superior officer may give, or for his failing to repair to the prescribed rendezvous with his arms and accoutrements, he being properly warned to do, or failing to do his duty when present or absenting himself without the permission of the commanding officer of the company, without a reasonable excuse, shall forfeit pay, that is to say, for non-appearance at parade two dollars, and for not being equipped and accoutred as this act directs, a sum of one dollar, and for absence without leave after appearance one dollar. Every non-commissioned officer appointed in pursuance of the provisions of this act, shall serve for the term of one year, or incur a penalty not less than five nor more than twenty dollars, the payment of which said penalty shall be forfeited if such person insults on the privilege, except the person so refusing from the duties of the said office, for the space of two years.

Sec. 16. *And be it enacted*, That when it may be necessary to call into actual service any part of the militia, or on actual or threatened invasion of this territory or of any of the neighbouring states or territories, that it shall and may be lawful for the governor to call into actual service such part of the militia as the exigency may require. Provided, however, that no militia man shall be com-

Gov may
call out mili-
tia in certain
cases.

called to serve more than sixty days at one time, and that thirty days shall be accounted one tour of duty.

In case of sudden invasion, &c. commandant of district to call out militia—

to give notice thereof to governor—

penalty on officers & privates for refusing to turn out—

Sec. 17. *And be it enacted,* That if any sudden invasion shall be made or threatened to be made into this territory by indians or any other power, the commanding officer of the district where the invasion is meditated is hereby authorized and required to order out the whole or any part of the militia of his district as he may think necessary for repelling such invasion, and shall call on the commanding officers of the adjacent districts for such aid as he may think necessary who shall forthwith furnish the same. And it shall be the duty of every commanding officer of a district on receiving information of the invasion or intended invasion of his or any neighboring district, forthwith to convey information of the same by special messenger or otherwise to the governor of the territory, that he may make the necessary arrangements for repelling the same. And if any officer, non-commissioned officer, or private shall neglect or refuse to appear upon the order of the commander in chief, brigadier-general, or other officers duly authorized as above, such delinquent shall forfeit and pay at the discretion of a court martial for the assessment of fines, a sum not exceeding one year's pay and not less than one month's pay, as established for the compensation of the services of such persons when in actual service. The militia

while in the actual service of the territory, shall be governed by the rules and articles of war which shall or may be established for the regulation of the armies of the United States.

militia in ac-
tual service
subject to
rules and ar-
ticles of war
for U. States
armies.

Sec. 18. *And be it enacted,* That if any officer shall misbehave or act with insubordination or disorder, or in violation of the foregoing provisions whilst on parade or assembled for review, muster or exercise or any other duties authorized or required by this act, he shall be immediately arrested by the commanding officer present, and reported to the brigadier-general or commander in chief, who, for this as well as all other violations of this act, shall order a court martial or court of enquiry and court martial for the investigation or trial of the offence as the case may appear to require.

Commis-
sioned offi-
cers for mis-
behaviour
how punish'd

Sec. 19. *And be it enacted,* That when a brigade, regiment or battalion, assemble for review, muster or exercise, the commanding officer shall order a guard of a subaltern or serjeant, and such number of men as he may deem necessary; whose duty it shall be to receive and guard all such persons as shall be ordered under their charge by the commanding officer or inspector for misbehaving or refusing to attend to discipline, in exercising and performing all those evolutions and other duties which may be required of them by law.

Commis-
sioned officer
on reviews
may order
a guard to
take care of
those who
misbehave..

Sec. 20. *And be it enacted,* That if any of- officer guilty

Seco

of breach of
this law, how
to be pro-
ceeded a-
gainst.

ficer shall be guilty of a breach of this
or in any respect violate or neglect his duty
or be guilty of ungentlemanly conduct,
shall be heard, tried and sentenced by a court
martial.

Fines impos-
ed on persons
under the age
of 21 by
whom to be
paid.

Sec 21. *And be it enacted,* That fathers
shall be bound for payment of fines incurred
by their sons, under the age of twenty
years, guardians for the payment of fines in-
curred by their wards, and masters for the
payment of fines incurred by their servants
or apprentices, and they shall be respect-
fully charged therewith by the courts of as-
sessment accordingly.

Adj of each
reg't to keep
a list of the
officers of his
regiment.

Sec. 22. *And be it enacted,* That it shall
be the duty of the adjutant of each regiment
to keep a register of the officers belonging to
his said regiment, for courts martial, and
courts for the assessment of fines.

commanding
officers of
reg'ts to con-
vene the of-
ficers of their
reg'ts, when,
where, for
what pur-
pose—

Sec. 23. *And be it enacted,* That it shall be
the duty of the commanding officer to con-
vene all the officers of their regiments respec-
tively at some central and convenient place
in the bounds of the same, on the Monday
preceding the battalion muster days respec-
tively, and there cause the adjutant or some
other fit person to teach the said officers their
duty and manual exercise agreeably to the
rules and regulations prescribed by law: the
adjutant or person disciplining shall be allow-
ed for that duty, two dollars for each day

he shall be so employed, out of any monies arising from fines imposed by this act. And if such commanding officers of regiments shall fail to appoint a place for the exercising the officers as aforesaid; or such officers shall fail to attend, without a reasonable excuse; they shall be fined at the discretion of a court for the assessment of fines in any sum not exceeding twenty dollars. It shall be the duty of the adjutant to make a return of such delinquent officers; if a field officer to the brigadier general, who shall proceed against such delinquents according to law; and if an inferior officer, to the judge advocate, who shall proceed thereon, as herein after directed.

delinquents,
to be fined;

adj. gen. to
return their
names to
brig. gen.

Sec. 24. *And be it enacted*, That a majority of the field officers of each regiment with the commandant, shall nominate fit persons within their bounds to the governor of the territory, the one as pay master, the other as judge advocate of the regiment. And the governor shall, if he thinks the said persons respectively qualified, appoint and commission them for this several duties. It shall be especially the duty of the judge advocate, to prosecute in behalf of the United States, and also perform such other services as are by this act prescribed.

Field officers
of each regt.
to nominate
persons to the
governor for
pay master
and judge Ad-
vocate of
such regt.—
gov. may ap-
point—
duty of judge
advocate.

Sec. 25. *And be it enacted*, That it shall be the duty of the pay master of each regiment, independently of such duties as may be required of him by the commander in chief, when called into actual service, to receive

Duties of
pay-master

to give bond.

and receipt for all monies collected for fines and forfeitures within his regiment, and for to keep the same, until drawn out of his hands by the warrant of the commanding officer of the regiment or battalion to which he may be annexed, which said warrant shall be given in writing by the said commanding officer for the use of the said battalion or regiment, specifying the objects to which the monies so drawn for are to be applied. The judge advocate shall transmit to the pay-master, all the sentences, assessments or appropriations which shall from time to time be made by the courts martial or courts of assize, and it shall be the duty of the pay-master to receive and file the same. The said pay-master shall, previously to his entering on the duties of his said office, in addition to his other qualifications prescribed by this act, execute a bond to the governor of the territory with security to be approved by him, in the sum of two hundred dollars for the faithful discharge thereof. The said pay-master shall annually, in the month of May, settle with the field officers of his regiment or a majority of them, the accounts of all monies received and disbursed by him, and shall be entitled in such settlement to a credit of six per cent on all monies so disbursed or paid out as above mentioned. Immediately after which said settlement it shall be the duty of the said pay-masters respectively, to report fully and at large, a detailed statement of his said accounts to the brigadier-general and also to the commanding officer of his corps.

Sec. 26. *And be it enacted,* That all general courts martial shall consist of a president, a judge advocate, and not more than twelve members nor less than six members.—

The president and judge advocate of such general court martial, shall be named by the officer ordering the same. When the court martial is convened, the president shall administer the following oath to the judge advocate, to wit : “ You do swear or affirm, as the case may be, that you will faithfully ex-

General
court martial
of whom to
consist—

ecute the office of judge advocate to this court for the trial of the prisoner to be tried to the best of your abilities and understanding and the custom of war in like cases ; and that you will not disclose or discover the opinion of this court martial until approved or disapproved by the commander in chief ; that you will not at any time disclose or discover the vote or opinion of any particular member unless called upon by a court of justice to give evidence thereof in due course of law.”

The judge advocate shall then administer to the president and afterwards to every member, the following oath, to wit : “ You swear or affirm, that you will well and truly try and determine according to the evidence, the best of your understanding and the custom of war in like cases, between the United States and the prisoner to be tried, and that you will not disclose or discover the opinion of this court until approved by the commander in chief, and not at any time disclose the opinion of any particular member unless called upon to give

judge advocate to take
an oath,
by whom administered,

members to
take an oath,
by whom administered—

legal number
not appear-
ing how to
proceed.

evidence thereof in due course of law. And if a legal number shall not have attended at the time and place appointed, any five of those who may have been appointed above mentioned, shall be a sufficient number to send for absent members; and in case the said absentees shall neglect or refuse to assemble, a court of four and the president shall have power to fine those who do not attend without a reasonable excuse, in any sum not exceeding four dollars for each day they shall so absent themselves.

Com'd'r in
chief or brig.
gen. may or-
der general
court martial

Sec. 27 *And be it enacted*, That the commander in chief or the brigadier general shall, when they or either of them think proper, order general courts martial, composed of officers of any regiment or battalion, or from different regiments or battalions, which said officers shall assemble at such place as he shall appoint, and shall have power to hear, try and determine all complaints arising out of this act, which may be brought before them. But the sentences of such court shall not be final until approved or disapproved by the commander in chief. And the brigadier general may order extraordinary courts martial for the assessment of fines, within any regiment or battalion at such times and places as may be necessary: Provided, that the said courts shall not sit for any one battalion or regiment more than twice in each year, and that notice of the time and place of the setting of the court be given at a battalion or company muster.

sentence to
be approved
or disapprov-
ed by com'd'r
in chief--

brig gen.
may order
extra courts
martial for
assessment
of fines--

Proviso.

Sec. 28. *And be it enacted,* That the commandants of regiments and separate battalions, shall have the power to order regimental courts martial, for the trial of captains and subalterns, the sentences of which shall not be final until approved by the commander in chief.

commanders of regiments and separate battalions may order regimental courts martial in certain cases.

Sec. 29. *And be it enacted,* That the commanding officer of each regiment shall annually in the month of January, appoint five officers for each battalion to serve for the ensuing year as a court of assessment of fines for the respective battalions. These officers, so appointed, or any three of them, shall meet twice a year within fifteen days after each battalion muster at such time and place as the commanding officer shall direct, whereof public notice shall be given at each battalion muster which said courts for the assessment of fines, as well as those which may be assembled by order of the brigadier general, shall have power to hear and determine all delinquencies and all complaints of inability. And if it appear to such court that such person or person complaining, are not able to do militia duty, they shall be discharged from the muster roll during such inability. The judge advocate shall act as clerk to each court for the assessment of fines; which may be held in the bounds of the regiment or corps to which he belongs, and shall record in a book to be by him kept for that purpose the whole proceedings of each court. which proceedings at the close of each court, shall be

commanders of regiments annually to appoint a court for assessment of fines—

court when to meet,

its powers—

judge advocate shall act as clerk,

proceedings

how to be
signed and
by whom--

pay of judge
advocate,
by whom to
be certified.

Judge advo-
cate to take
oath--
by whom ad-
ministered :

form of oath,

members to
take oath,
by whom to
be adminis-
tered,
form.

Duplicate of
the assess-

signed by the commanding officer and counter-
signed by the judge advocate. The judge
advocates shall be exempt from parade duty
and have an allowance made by the court
not exceeding three dollars per day. It shall
be the duty of commandants of regiments
from time to time to certify to the pay-mas-
ter, the amount of such sum as the judge ad-
vocate may be entitled to, and to issue a war-
rant for its payment.

Sec. 30. *And be it enacted*, That the presi-
dent of such courts assembled for the assess-
ment of fines and the punishment of delin-
quencies, shall administer to the judge ad-
vocate the following oath : " You solemnly
swear or affirm, that you will faithfully exe-
cute the office of judge advocate to this court
that you will keep an exact record of all the
proceedings from time to time, and not dis-
cover or disclose the opinion of the court
when secrecy may be required, until approv-
ed or disapproved by the proper officer ; and
that you will not disclose the opinion of any
particular member unless called upon to give
evidence in a court of justice." The judge
advocate shall then administer to the president
and members of said court the following oath :
" You do swear or affirm that you will assist
all fines according to law and evidence, to
the best of your understanding without par-
tiality, favor or affection."

Sec. 31. *And be it enacted*, That the judge
advocate shall make out four fair and authen-

deated copies of all fines assessed by a court martial or court for the assessment of fines, and deliver such lists to the commanding officer ordering such courts, one of which the said commanding officer shall transmit to the brigadier general, one to the sheriff of the district, one other to the pay master, and one he shall retain for his own use. The sheriffs of the respective districts into whose hands the said assessments shall be put for collection, shall promptly and diligently collect and pay over the same to the paymaster of the regiment or battalion, retaining for his commissions twelve and a half per cent on the said collections. The said pay-master shall receipt to such sheriff for all monies paid by him on account of militia fines, and shall have power, and it shall be his duty to move against such sheriff in the court of the district of such sheriff for neglecting to pay over all fines so put into his hands, within six months from the date of said sheriff's receipt for such lists. The courts of the districts respectively shall enter up judgment against the said sheriff for the amount which may appear to be due, which on its recovery shall be paid over to the pay master of the regiment or battalion to be appropriated as other militia fines: Provided, that ten days previous notice of such motion be given to such sheriff.

ment of fines
to be made
out by judge
advocate—

to whom the
same are to
be delivered,

sheriff to
collect the
same—
& pay them
to pay master

on default
how to be
proceeded a-
gainst—

Sec. 32. *And be it enacted*, That whenever an oath or affirmation shall be administered by a court martial to a witness, the said oath or affirmation shall be in the following form: You swear or affirm, that the evidence you

Witness be-
fore court
martial to be
sworn,
form of oath.

shall give in the cause now in hearing that be the truth, the whole truth and nothing but the truth."

If judge advocate does not attend, court may appoint one pro. tem. president of court martial to appoint provost martial—his duty : persons behaving disorderly to be fined—

president may issue summon for witnesses, &c. by whom to be executed ;

witness being summoned, and not appearing, to be fined—

witness may be attach'd—

fines how collected and appropriated courts mar-

Sec. 33. *And be it enacted*, That when a judge advocate shall fail to attend a court martial, such court shall appoint a judge advocate pro. tem. to act in his place. On the assembling of any court martial the president thereof shall appoint a provost martial, whose duty it shall be to execute the commands of the court, and keep any by slander from interrupting the court while sitting. And any person behaving in an indecent, provoking or riotous manner before the court when sitting, shall be fined at the discretion of the court, not less than three nor more than thirty dollars. The president of any court martial or any general or field officer, shall have power to issue summonses to compel the attendance of witnesses, which said summonses may be executed by such person as the general or field officer shall appoint, or by the provost under the direction of the court. And if any witness after being duly notified shall fail to attend the said court at the time and place mentioned in the summons, he shall be fined by the said court if no reasonable excuse for such absence can be assigned in a sum not less than three, nor more than thirty dollars, at the discretion of the court. The court may moreover award an attachment to compel the attendance of such witness. And the said fines shall be collected, accounted for and appropriated in the same manner as other militia fines. All courts martial shall

have power to adjourn from time to time, if it may appear necessary for them so to do: Provided, that such adjournments shall not be for a longer period than thirty days.

Sec. 34. *And be it enacted*, That on the refusal or neglect of the judge advocate faithfully to perform such duties as are by this act assigned him, he shall be fined, at the discretion of the court, in a sum not exceeding twenty dollars.

Judge advocate failing to perform his duty, may be fined.

Sec. 35. *And be it enacted*, That the necessary forms of courts martial, which may be expressed in this act, shall be such as are established by the articles of war.

What forms courts martial shall pursue.

Sec. 36. *And be it enacted*, That all orders given by the brigadier general of the territory in pursuance of this act, through his aid-de-camp, brigade-major and inspector, or directly from himself, shall be obeyed and respected throughout this territory.

Order of brigadier gen. to be obeyed.

Sec. 37. *And be it enacted*, That when in the opinion of the commander in chief such corps can be conveniently raised and equipped, independent troops of horse and companies of artillery, grenadiers, light infantry and rifle men, may be formed which shall be officered, armed and wear such uniform as the commander in chief shall direct, and individuals composing these light companies shall not be subject to fines for not attending muster in their former companies; and no such individual shall be permitted to join any other company so long as he resides within

Independent companies of horse, &c may be raised under what conditions.

the bounds of the regiment, battalion or company to which he belongs, unless at one year's notice to the commanding officer of such company of his intention to withdraw from the said company, or on the dissolution of the said light company, or with the permission of the individuals composing it. Provided however, that no person shall enrol himself in any light infantry or rifle company out of the bounds of the battalion to which he belongs. All artillery companies, hereafter to be raised, shall be attached to the regiment in the bounds, where the captain commanding the same may reside and be subject to the rules and regulations of the regiment.

Manner in which such companies must be formed—

their duties—

trooper's horse and uniform to be exempt from executions, &c.

Sec. 38. *And be it enacted*, That all persons desirous of forming troops or companies of horse or artillery and who shall associate themselves, shall subscribe to certain rules and regulations for their government, when sanctioned by the commander in chief, shall be binding on them. All such volunteer companies shall act, muster and parade in accordance with the special order of the brigadier-general commanding in chief, independently of any regulations in addition to those duties which they are bound to perform by the company regulations and by the provisions of this act. Every troop or company who shall enroll himself for this service shall be furnished himself with a horse, uniform, cloathing and other accoutrements, and shall hold the same exempted from taxes and civil prosecutions, during his continuance

said corps. Provided, that all such horses and accoutrements, shall be registered with the purser of the troop or company, which officer shall be recommended by the troop and commissioned by the governor. It shall be the duty of the purser to act as clerk of the company; to keep a list of all delinquents; receive all fines and appropriate them agreeably to such rules as shall have been adopted by the said troop. It shall moreover be the duty of the purser to keep list of the distribution of all public arms, ammunition, accoutrements and military stores, and take receipt for the same, and to make report to his captain or commanding officer every two months of all delinquents and of all monies received, paid out and remaining in his hands, also of all public stores and equipage belonging to the company. He shall receive for his services such compensation as may be allowed by the said company. The commanding officers of troops, companies and light corps, shall make a full report of the state thereof every three months to the brigadier general.

Sec. 39. *And be it enacted*, That all officers shall be attentive to the forming disciplining, leading and commanding their several corps and to such other duties as shall respectively pertain to them by this act, and the orders which from time to time shall be given by the commander in chief.

Sec. 40. *And be it enacted*, That in all cases not especially provided for, in this act, the

Clerk of company to keep list of delinquents, &c.

purser to keep list of & distribute public arms etc.

purser to receive compensation—

commanding officers to report to brigadier general.

Officers duty in forming their corps—

Certain acts of congress

to be observed in cases not otherwise provided for. several acts of congress, providing for the national defence, by establishing an uniform militia throughout the United States. shall be observed by the militia of this territory.

Militia to guard jails in certain cases,

penalty for refusing—

Sec. 41. *And be it enacted*, That whenever in any of the several districts of this territory, the sheriff shall make report in writing to any three or more judges or justices of the peace that he hath in his custody, one or more persons charged with offences against the laws of the United States, or of this territory, and that the jail of such district is in his opinion insufficient for the safe keeping of such prisoners, the said judges or justices, or any one of them if judges of the territory; or any three of them if justices of the peace for the district, if in his, or their opinion the said report of the sheriff be correct, shall forthwith together with the sheriff of the district, certify the same to the commanding officer of the militia of the district or regiment, for the time being. And it shall be the duty of the said commanding officer thereupon, to order out of the militia, a suitable number of officers non-commissioned officers and privates, sufficient for guarding and safe keeping such prisoner or prisoners by a regular rotation of duty, in such manner and for such time as shall be the least inconvenient and burthensome to the militia, and at the same time consistent with the safe keeping of such prisoner or prisoners. And if any such officer shall refuse to obey such orders, he shall be subject to be tried by a court martial, and be punished as by this act directed for disobedience of or-

ders. And if any non commissioned officer or private shall disobey such order, he shall be fined by the proper court the sum of two dollars, to be assessed, collected and appropriated as other militia fines.

Sec. 42. *And be it enacted*, That an act A former entitled an act establishing and regulating the law repealed. militia," and an act entitled "an act in addition to a law establishing and regulating the militia" be, and the same are hereby repealed.

The foregoing is hereby declared to be a When this law of the Territory of Louisiana; and to take law is to be effect and be in force from the first day of in force. September next.

In testimony whereof we Frederick Bates, secretary of the Territory of Louisiana, and exercising the government thereof, and John B. C. Lucas and Otho Shrader, judges in and over the said Territory, have herunto set our hands, at the town of Saint Louis the sixth day of July in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States the thirty-second.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

For the recovery of debts and demands not exceeding sixty dollars before a justice of the peace.

Jurisdiction
of justices of
the peace, in
civil cases,

form of peti-
tion to justice

justice to en-
dorse a sum-
mons there-
on,

its form,

BE it enacted by the Legislature of the Territory of Louisiana, That if any person shall have a demand against any other upon bond, note, book account, promise, or for work and labour done, goods, wares, merchandize or other property sold, and delivered, or rent due, which demand shall not exceed the sum of sixty dollars, such person may make complaint to any justice of the peace in the township where the defendant resides, by presenting himself or by his agent a petition to such justice in the following form: "To A. B. esq. a justice of the peace, " sir, C. D. of your township is indebted to " me upon a note (or bond, account, and as " the case may be) as appears by the said " note (or account as the case may be) here- " with shewn to you; I require you there- " fore to issue process against the said C. D. to " appear before you and shew cause why I " ought not to recover the said demand with " costs against him. Signed, E. F. " Where- upon it shall be the duty of the justice to en- dorsed on the said petition a summons against the said defendant, if he is a householder, and has resided one year previous to said suit being brought in the township which summons is to be in the following form, to wit. " to

"the constable of township, in the
 "district of ; summon C.D. to ap-
 "pear before me, a justice of the peace, on
 "the day of next, between
 "the hours of ten o'clock in the forenoon
 "and three in the afternoon, to answer to E.
 "F. the within demand. Given under my
 "hand, the day of .” The return
 day of the summons shall not be more than ^{when return-}
 eight nor less than five days after the date of ^{able,}
 the summons, of which day of hearing the
 plaintiff or his agent shall have notice at the
 time of granting the summons by the justice.
 And the service on the defendant shall be by ^{how to be}
 producing the original petition and summons ^{served.}
 and informing the contents thereof, or by
 leaving a copy of it at his dwelling house in
 the presence of one or more of his family or
 neighbours at least four days before the time
 of hearing.

Sec. 2. If the defendant be not a house- ^{In what}
 holder or has not resided one year previous ^{cases a war-}
 to the suit being brought in the township, or ^{rant shall is-}
 if the plaintiff or his agent makes oath or af- ^{sue,}
 firmation that he has reason to believe that
 the defendant is about moving out of the
 township, in such case the justice may upon
 application of the plaintiff, or his agent en-
 dorse on the petition a warrant in the follow-
 ing form, to wit, "to the constable of ^{its form}
 "township, in the district of ; take
 "C.D. and bring him forthwith before me
 "a justice of the peace, to answer E. F. the

" within demand. Given under my hand,
 " the day of ."

Judgement of
 justice to a
 amount of \$10
 to be final.—

if above that
 sum

may be re-
 ferred to ar-
 bitration,

manner of
 naming re-
 ferrees—

award to be
 in writing &
 returned to
 justice—
 judgment to
 be entered
 therefor and

Sec. 3. If the parties appear before the justice either in person or by responsible agent, the justice shall proceed to hear the proofs and allegations, and if the demand shall not exceed ten dollars, shall give judgment as to right and justice may belong, which judgment shall be final. But if the demand or sum in controversy shall be more than that sum and shall not exceed six y dollars, and either party shall refuse to submit to determination of the cause to the justice, such justice shall require the parties to name immediately three arbitrators, and if they can not agree upon the choice, then the justice shall make out a list of seven disinterested, reputable householders resident in his township, who are in no wise related to either of the parties, and require each party to strike out of such list the names of two persons, and if either party shall refuse to strike, the justice shall strike out two names, and the remaining three persons shall be named by such justice as referees, who shall be sworn or affirmed well and truly to try all matters in variance in that cause between the parties, and on having heard their proofs and allegations, they or any two of them shall make out an award under their hands, and transmit the same to such justice who shall thereupon enter judgment for the sum awarded and costs, and shall allow each of the said referees fifty cents per day for his service : which judg-

ment so obtained, and when not exceeding thirty dollars, shall be final and conclusive on both parties without further appeal. It shall be the duty of the justice to notify through a constable or any other fit person each of the referees so chosen of their appointment and of the time and place fixed for the hearing; and if any person so chosen and notified as aforesaid shall neglect or refuse to serve he shall for every such neglect or refusal (unless prevented by sickness or any other unavoidable accident) forfeit and pay the sum of two dollars, to be paid to the supervisor of roads to be applied by him in repairing the public high-ways of the township in which such person or persons so refusing or neglecting shall reside—which fine shall be recovered before such justice of the peace on complaint of the party injured. *Provided* that an action be brought within thirty days after such neglect or refusal.

to be final if
not over \$20

justice to
cause refer-
rees to be no-
tified --

penalty on
referees re-
fusing to
serve,

proviso.

Sec. 4. If neither party or their agents require a reference as aforesaid the justice may proceed to hear and examine their proofs and allegations, and thereupon give judgment publicly as to him of right may appear to belong, either party having the right to appeal to the court of common pleas of the proper district within twenty days after judgment being given either by the justice alone or on the award of referees when such award shall exceed the sum of thirty dollars. *Provided*, that it shall be in the power of the justice with consent of parties or their agents to open his judgment and give them another hearing.

No reference
being requir-
ed, justice to
try the case;

appeals
granted in
certain cases;

proviso.

Party appealing
to enter
into surety,

form of sure-
ty to be given
by plaintiff—

form of sure-
ty by deft.

how to be
signed and
tested.

Justice on
appeal to file
papers, &c
with clerk of
com. pleas.

Sec. 5. The party appealing from the judgment of the justice, if plaintiff shall be bound with surety in a recognizance in a sum sufficient to cover the costs which have or may accrue, in the following form, to wit: "We, the subscribers acknowledge to be indebted to A. B. (the defendant) in the sum of _____ dollars, to be levied upon our respective goods and chattels, upon the condition, that C. D. shall prosecute his appeal, and that if the judgment of the justice shall be affirmed by the court, or if he shall recover less than the amount of the judgment of the justice that he shall pay all the costs that are or may hereafter accrue." If the defendant appeal the recognizance shall be taken in the same form in a sum sufficient to cover the sum in controversy and all the costs upon condition "that if the judgment shall be affirmed by the court, or if the plaintiff shall recover more than the amount of the judgment of the justice that such defendant shall pay the amount of the judgment and costs." Which recognizance shall be subscribed by the party appealing and the surety and tested by the justice. And upon such appeal it shall be the duty of the justice to file on or before the first day of the next term of the court of common pleas, with the clerk, the original petition and process together with the aforesaid recognizance and other papers appertaining to the cause, and a copy of the entries made in his docket. The clerk shall enter

the appeal on his docket, and the suit shall be tried and determined in its order like other actions, where the parties are considered in court at the first term, unless sufficient cause be shewn to the court to grant a continuance. And the costs accrued before the justice shall attend the event of the suit.

appeal to be docketed and tried like other suits.

Sec. 6. In any demand exceeding thirty dollars hereby made cognizable before a justice of the peace, if after the service and return of the original summons or warrant and before the trial has commenced before the justice, the defendant or defendants shall elect to have the cause tried in the court of common pleas and offer sufficient security in the nature of special bail, if the cause originated by warrant of arrest, or to file common appearance if it originated by summons, the justice before whom such suit is depending may and shall take such recognizance of bail in the same manner as is before prescribed in appealing after judgment or warrant for common appearance to the said suit to be as if the term then next ensuing, for the district in which said suit is depending and transmit the same with the original *plaint* and the process to the clerk of the court of common pleas of such district and such recognizance or warrant shall be effectual as if taken and acknowledged before a judge of the said court, and thereupon all proceedings before the said justice shall cease and the cause or suit shall be prosecuted in the said court. And if any plaintiff in any such cause so as aforesaid de-

Demands above £ 30, may be moved by defendant to court of common pleas.

surety to be given in certain cases.

and the plaintiff may also

remove the
same,

proceedings
thereafter.

Justice may
enter judg-
ment by de-
fault in cer-
tain cases,
and issue ex-
ecution forth-
with.

mode of pro-
cedure upon
judgment by
default
where de-
mand is not
founded up-
on note, etc.
when deft.
does not ap-
pear to have
judgment
opened.

pending, shall after the service and return of the original process and before the trial has commenced before the justice, elect to have the same tried as aforesaid, the justice before whom the same is depending shall on demand made, transmit the proceedings in such case before him to the next court of common pleas as aforesaid to be proceeded on as aforesaid.

Sec. 7. If on the return day of any summons the defendant neglect or refuse to appear as he was commanded by the summons and the plaintiff's demand is founded on a note or other instrument of writing, signed by the defendant, and it shall appear by the return of the summons signed by the constable that the same was served on the defendant in manner as herein before directed, it shall and may be lawful for the justice to give judgment by default for the amount that may appear to be due on such note or other instrument of writing together with costs, and to issue execution forthwith for the same. The same proceedings as herein expressed with all the conditions provided for, shall be had and complied with in case the demand is not founded upon a note or other instrument of writing, signed by the defendant, with this exception that no execution shall issue, forthwith, but that it shall and may be lawful for the plaintiff to obtain a certified copy under the hand of the justice of the peace, of the said judgment by default, together with a written notification, that if the said defendant shall not appear before the said justice of the peace, on

the eighth day after the service of the copy of the judgment and notification, and shall not pray that the said judgment be opened, and forthwith make his defence, such judgment shall become absolute and execution shall forthwith issue for the same—a copy of which said judgment and notification shall be served by the proper constable upon the defendant, or in case of absence shall be left at his usual place of abode.

Sec. 8. If the said defendant shall appear on such day and shall pray that such judgment be opened and shall instantly make his defence, in this case the said judgment shall be opened, and it shall be proceeded on in any such case as if the defendant had appeared on the return day of the summons. And moreover the plaintiff shall be allowed in his costs one dollar for his trouble in attending before the justice a second time.

Proceedings
when defend-
ant does ap-
pear.

Sec. 9. If the plaintiff does not appear on the day appointed for trial either in person or by agent to substantiate his charge the justice may then proceed to give judgment against him by non suit for the costs of suit.

When plf.
shall be non-
sued:

Sec. 10. Upon the affidavit of either party or their agent that the testimony of any material witness is wanted, who resides out of the district or at a greater distance than twenty miles from the justice, or from his infirmity of body, or other causes cannot be obtained personally, the cause shall be postponed to a day certain within such reasonable

When wit-
ness cannot
be obtained
cause to be
postponed,
and his depo-
sition taken.

and debt, shall
give security
in certain
cases.

upon taking
depositions
what notice
is to be given

what deemed
to be suffi-
cient authori-
ty for taking
them.

certain cases
in which ex-
ecution shall
be stayed—

time as the distance of the witness or the sea-
son of the year may render it convenient to
obtain the deposition of the witness wanted.
And whenever a cause is postponed at the
instance of the defendant, and the original
process has been a warrant, such defendant
shall enter into a recognizance for a sum suf-
ficient to cover the demand in question, to-
gether with the costs with one sufficient secu-
rity, for his appearance on the day fixed as
aforesaid. And whenever a rule for taking
the deposition of a witness or witnesses shall
be applied for as aforesaid, the party so apply-
ing shall give notice of the time and place of
taking the same to the adverse party at least
two days, and allowing moreover one day
for every twenty miles distance that the party
lives from the place where the depositions
are to be taken, and the rule to take depo-
sitions being certified by the justice granting
the same shall be sufficient authority for any
justice of the peace of this territory, or any
of the United States or territories to take the
deposition of such witnesses as may be nam-
ed in the said rule; and testimony so taken
shall be read in evidence on the trial before
the justice or referees.

Sec. 11. In all cases where the original
process has been a summons or where the
original process has been a warrant, and the
defendant shall enter special bail to the action
and the judgment shall be above five dollars
and not exceeding twenty dollars there shall
for 1 month, be a stay of execution for one month. And

where the judgment shall be above twenty dollars and not exceeding forty dollars there shall be a stay of execution for two months, and when the judgment shall be above forty dollars and not exceeding sixty dollars there shall be a stay of execution for four months. *Provided* that in cases where debts have been contracted before the passage of this act there shall be in the before mentioned cases a stay of execution for three months if the judgment is given for twelve dollars or any sum under twelve dollars, and a stay of execution for six months for any judgment given for any sum above twelve dollars and under thirty dollars.

Sec. 12. Every justice of the peace rendering judgment as aforesaid shall receive the amount of the judgment if offered by the defendant or his agent, before execution, and pay the same over to the plaintiff or his agent when required, for which service he shall if the sum exceeds five dollars be allowed twenty five cents by the said defendant, in addition to his usual fees. And if the said justice shall neglect or refuse to pay over on demand the money so received to the plaintiff or his agent, such neglect shall be deemed a misdemeanor in office, and upon conviction thereof in the general court, the justice shall be liable to a fine not exceeding the sum received by him as aforesaid, and it shall be the duty of the governor to revoke the commission of such justice.

Amount of judgment may be paid justice before execution who is to pay over the same—his fees therefor—

penalty for not paying over to plaintiff

Justice to is-
sue execut'n,

Sec. 13. If the amount of the judgment is not paid to the justice as aforesaid, he shall grant execution thereupon, together with the costs if for a sum not exceeding five dollars forthwith, and for any other sum after the time limited for the stay of the same, which execution shall be in the following form, to wit: "to the constable of _____ town-
form thereof. "ship, in the district of _____, whereas
"A. B. has obtained judgment before me a
"justice of the peace in and for the township
"aforesaid against C. D. for a debt of
"_____ and _____ for his costs
"these are therefore to command you to
"levy the said debt and costs of the goods
"and chattels of the said C. D. and to ex-
"pose the same within twenty days next fol-
"lowing the date hereof, to sale by public
"vendue, giving due notice of the same, at
"least five days previously to the day of sale,
"by at least three advertisements, put up at
"the most public places in your township,
"and returning the overplus (if any) to the
"said C. D. and for want of sufficient li-
"tress, you are commanded, to take the bo-
"dy of the said C. D. in custody and convey
"him to the common jail of the district
"the sheriff or keeper thereof is hereby re-
"quired to receive him, and him safely keep
"until the said debt and costs be fully paid,
"or the said C. D. be otherwise discharged
"according to law; you are also command-
"ed to make return of this execution to me
"within twenty five days from this date.—
"Given under my hand this _____ day of _____."

Sec. 14. On the delivery of an execution to any constable an account shall be filed in the docket of the justice, and also on the back of the execution of the debt interest and of the costs, and fees due to each officer separately, from which the said constable shall not be discharged, but by producing to the justice on or before the return day of the execution, the receipt of the plaintiff, or such other return as may be sufficient in law. And in case of a false return, or in case he neglects or refuses to make return, or does not produce the plaintiff's receipt, or make such other return as may be deemed insufficient by the justice, he shall on application of the plaintiff or his agent issue a summons directed for service to any householder of his township, commanding the said constable to appear before him on such day, as shall be mentioned in the said summons, not exceeding five days from the date thereof, and then and there shew cause why an execution should not issue against him, for the amount of the first above mentioned execution, and if the said constable either neglects or refuses to appear on the day mentioned in such summons, or does not shew sufficient cause why the execution should not issue against him, then the said justice shall enter judgment against such constable for the amount of the first execution, from which judgment there shall be no appeal; nor any stay of execution. And upon application of the plaintiff or his agent the said justice shall issue an execution against the constable for the amount of such judgment.

H h

Account of
debts & costs
to be stated
on docket &c.
execution,
constable an-
swerable for
the amount;
when collect-
ed—

penalty on
neglect, &c.

manner of re-
dress.

Proviso.

further proviso.

Special bail may surrender principal.

**Judgment may be removed by certiorari to com. pleas—
proviso.**

ment, which execution may be directed to any householder of the township, whose duty it shall be to execute the same. *Provided always*, that the plaintiff shall have his election to proceed against the constable in the manner herein directed, or to institute a suit in the court of common pleas against the constable and his sureties in the bond given in pursuance of an act entitled “an act providing for the division of districts into townships, and for the appointment of justices of the peace and constables.” *And provided also*, that nothing in this act contained shall in any manner impair or alter the proceedings then may be now established or that may hereafter be established by law with regard to insolvent debtors and their discharge on a full surrender of their property.

Sec. 15. The special bail entered before any justice, in any suit, may surrender the principal, and may be proceeded against before the justice in the same manner as is provided by an act entitled “an act establishing courts of justice and regulating judicial proceedings.”

Sec. 16. In all cases the parties shall have the privilege of removing a judgment given by a justice of the peace, by writ of *certiorari* to the court of common pleas, *provided* such *certiorari* is applied for within thirty days after the judgment has been rendered. Upon the return of the *certiorari* the justice shall certify the whole proceedings had be-

fore him, by sending the original precepts, a copy of the judgment and execution if any be issued; and if the court shall set aside the proceedings had before the justice for irregularity or informality appearing on the face of the same, the court shall examine into the merits of the case, and give judgment as in other cases.

Sec. 17. Justices of the peace shall have power to take cognizance of all actions, and suits, brought for the recovery of damages for any trespass, wrong or injury done or committed against the real or personal estate of the plaintiff in all cases where the damage demanded by the plaintiff shall not exceed the sum of twenty dollars, and the same proceedings shall be had before them, subject to appeal and certiorari as herein directed in cases of demand on debts or promises.

Justices jurisdiction in actions of trespass, &c.

Sec. 18. No justice of the peace shall take cognizance of any action of *ejectment* brought to obtain possession of lands and tenements; actions of *replevin*, slander, actions on real contracts for the sale or conveyance of lands and tenements, civil actions for damages in personal assault, and battery, wounding or maiming, or actions for false imprisonment, or actions upon promise of marriage.

Certain actions of which justices shall not take cognizance—

Sec. 19. The justices of the peace shall have power to enter by consent of parties *amicable* actions on their dockets, without any original process, and to take the confession of judgment of any defendant who ap-

may enter amicable suits, and take confession of judgment.

appears before them in his proper person in cases made cognizable before them by this act, in which cases the same proceedings shall be had and the same stay of execution be granted as is provided for by this act where the suit is commenced by a summons or warrant.

Ifw. judg-
ment for
two high
§ 10, before
a justice may
be made a
lien on lands.

proviso.

Cases in
which party
cannot be put
to jail.

Act of defal-
cation may
be pleaded
before jus-
tice, &c.
10.

Sec. 20. Any plaintiff obtaining a judgment before a justice of the peace above the sum of ten dollars, may file a transcript of such judgment in the office of the clerk of the court of common pleas of the district wherein the justice resides, which shall at the time of filing such transcript have the same *lien* on the real estate of such defendant as a judgment rendered in the court of common pleas. *Provided* no execution shall issue out of the clerk's office until first execution has issued by the justice, and the constable shall have returned that no goods or chattels of the defendant are to be found in his township.

Sec. 21. *Provided* that no person shall be put in gaol upon an execution issued by a justice, unless the debt, interest and costs shall exceed the sum of ten dollars.

Sec. 22. The respective justices of the peace and arbitrators acting under the provisions of this act, shall permit any defendant to plead, and give in evidence any claim or demand which he may have against the plaintiff in the same manner as is provided by an act of this territory entitled "an act of de-

alcation," and the same proceedings shall be had thereupon.

Sec. 23. The several courts of record in this territory shall take no cognizance of any action, suit or complaint made cognizable before a justice of the peace, by this act, except in cases of appeal and *certiorari* herein provided. And a plaintiff instituting a suit in a court of record which by this act is made cognizable before a justice of the peace shall have his writ abated with costs.

Plaintiff's writ to be abated, in courts of record in certain cases.

Sec. 24. An act (passed by the governor and judges of the Indiana territory authorized and empowered by an act of Congress to make laws for the district of Louisiana) entitled "an act establishing courts for the trial of small causes," shall be and the same is hereby repealed. *Provided* that all actions instituted under that law shall be determined and execution awarded as if this act had not been passed.

A former law repealed.

proviso.

The foregoing is hereby declared to be a law of the Territory of Louisiana; and to take effect and be in force from and after the first day of September next.

When this act to be in force.

In testimony whereof we Frederick Bates, secretary of the Territory of Louisiana, and exercising the government thereof and John B. C. Lucas and Otho Shrader, judges in and over the said Territory, have hereunto set our hands, at the town of Saint Louis, this

seventh day of July in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States the thirty-second.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

In addition to "an act establishing recorder's offices" and providing a mode by which married women may release their right of dower.

Certain commissions to be recorded in the recorder's office.

BE it enacted by the Legislature of the Territory of Louisiana, That every person holding a civil office by commission from the governor of this territory, shall within three months after the passage of this act, cause such commission to be recorded in the office of the recorder of the district, in which such office is appointed, and every person who hereafter shall be appointed to any civil office by a commission from the governor shall before he enters upon the execution of such office, cause his commission to be recorded with the proper recorder as aforesaid.

How married women may release their

Sec. 2. It shall and may be lawful for any married woman to release her right of dower of, in, and to, any lands and tenements where-

of the husband of such woman may be possessed or seized of by any legal or equitable title, by joining such husband in the deed or conveyance whereby such lands and tenements are to be granted or conveyed and appearing before any judge of the general court or court of common pleas of this territory, or before any justice of the peace in the district where such land lies :—and it shall be the duty of the judge or justice to acquaint such woman with the contents of such deed or other conveyance, and to examine her apart from her husband, whether she executed such deed or conveyance voluntarily, and without compulsion, or undue influence of her said husband, and to endorse a certificate of such examination so as aforesaid made on the deed or conveyance. And every deed executed and certified as aforesaid, and recorded in the proper recorder's office in manner as is provided by an act entitled "an act establishing recorder's offices" shall be sufficient to discharge from the claim to dower of such married woman any lands and tenements conveyed as aforesaid.

Sec. 3. It shall and may be lawful for any judge of the court of common pleas within this territory, or for any justice of the peace of the district where the land lies, to take the examination of witnesses to any deed or conveyance or the acknowledgment of grantors in any deed or conveyance for lands in the manner and form as is provided by an act entitled "an act for establishing recorder's offices."

Before whom
deeds may
be acknow-
ledged or
proven.

When this
act is to be in
force.

The foregoing is hereby declared to be a law of the Territory of Louisiana, and to take effect and be in force from and after the first day of September next.

In testimony whereof, we Frederick Bates, secretary of the Territory of Louisiana, and exercising the government thereof, and John B. C. Lucas and Otho Shrader, judges in and over the said Territory have hereunto set our hands, at the town of Saint Louis, on the seventh day of July, in the year of our Lord one thousand eight hundred and seven and of the Independence of the United States the thirty-second.

FREDERICK BATES.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

Concerning insolvent debtors.

Judge of
com. pleas
may on peti-
tion of debtor
in prison, is-
sue his war-
rant to shif-
to bring pri-
soner before
him.

BE it enacted by the Legislature of the Territory of Louisiana, That any person committed to prison, unless under a criminal charge, shall be permitted to petition any judge of the court of common pleas of the proper district who by his warrant shall cause the sheriff or jailor to bring the prisoner before the said judge within five days next succeeding the date of the warrant.

Sec. 2. It shall be the duty of the said insolvent debtor to cause a notice in writing to be served on his creditors, their agents, or attorneys, and in case of the absence of the creditor, or his having no agent or attorney within the district, a notice shall be left with the clerk of the court within the district where the prisoner is confined, which notice shall inform the creditors that on a certain day application will be made by the prisoner to be permitted to take the benefit of the act concerning insolvent debtors.

Creditors to be notified, and how.

Sec. 3 And it shall be the duty of such insolvent debtor to deliver to the judge before whom he is brought an inventory signed by himself of all his property, real personal or mixed, to be disposed of for the benefit of his creditors. And it shall be the duty of

Insolvent debtor to make and deliver an inventory of his property to the judge, & to take an oath.

such judge to administer to the insolvent debtor the following oath, to wit: "I A.B.

"do solemnly swear (or affirm as the case may be) that the inventory now delivered and by me subscribed, doth contain to the best of my knowledge, remembrance, and belief, a full just, true, and perfect account and discovery of all the estate, goods and effects unto me in any wise belonging, and such debts as are unto me owing, or to any person in trust for me; and of all securities and contracts whereby any money or property may hereafter become payable or any benefit or advantage accrue to me or my wife, or any person or persons in trust for me; and that I, or any person or persons in trust for me, have no lands, money, stock

form of the oath.

" or other estate, real or personal in possession,
 " reversion or remainder, except those con-
 " tained within this inventory; and that I
 " have not used any device or artifice to co-
 " ver any of my property from my creditors
 " either by sale, mortgage, trust or transfer
 " of any description."

Inventory to
 be lodged
 with clerk of
 district.

Sec. 4. It shall be the duty of the Judge
 to cause the said inventory to be lodged with
 the clerk of the district where the oath is ta-
 ken for the information of the creditors of
 such insolvent debtor.

Property of
 debtor to be
 vested in
 sheriff or
 trustee ex-
 cept the
 wife's dower.

Sec. 5. The lands, tenements, and also all
 goods, chattels, claims, debts, and demands
 contained in such inventory, or such use,
 right, interest and title as such insolvent debt-
 or shall have in the same, which he may law-
 fully dispose of, reserving to the wife of such
 debtor her right of dower, shall be vested in
 the sheriff, or such person as a majority of
 the notified creditors may designate, and such
 sheriff or trustee shall sell and convey the same
 to any person for the best price that can be
 had for the same, and he shall pay the money
 arising from such sale to the aforesaid creditors
 in just proportion according to the amount
 of their respective claims; saving to such
 debtor his own and the necessary apparel of
 his wife and children, and his utensils of trade
 or occupation, and all such arms and accou-
 triments as every militia man is required to
 keep by law. And to prevent fraudulent and
 unjust claims against the estate of such insol-

who shall
 dispose of
 the same for
 the benefit of
 the creditors,

except wear-
 ing apparel,
 &c.

Shff. or trust-
 ee to give

gent debtor, it shall be the duty of the sheriff or trustee to give notice to the afore-
said creditors, and also to the insolvent debtor by a notice in writing or in the most public manner that on a day certain he will proceed openly to adjust and liquidate the demands against the estate of such insolvent debtor, and as soon as practicable proceed to a fair and just dividend.

Sec. 6. After delivering such inventory and taking such oath, the judge shall command the sheriff or jailor forthwith to set the prisoner at liberty, and he shall never be subject to arrest on account of such debts afterwards: but the creditor may at any time sue out process to execution against the estate which such insolvent person may thereafter acquire or be possessed of.

Sec. 7. It shall and may be lawful for the sheriff or trustee to commence suits and recover the amount from any persons indebted to the insolvent debtor. And the said sheriff or trustee may retain in his hands all reasonable expences to which he has been exposed in the management of the estate of the insolvent debtor, and such other compensation as the court of common pleas of the district where the prisoner was confined may deem just.

The foregoing is hereby declared be to a law of the Territory of Louisiana, and to take effect and be in force from and after the passage thereof.

public notice
to creditor &
debtor of
time & place
of adjusting
accounts.

Debtor to be
liberated and
not subject
to arrest for
same debts
&c.

Sheriff & trustee
may sue
for debts due
to the
debtor--
and retain
expences.

In testimony whereof, we Frederick Bates, Secretary of the Territory of Louisiana and exercising the government thereof, and Otho Shrader and John Coburn, judges in and over the said Territory have hereunto set our hands, at the town of Saint Louis, on the sixteenth day of October in the year of our Lord one thousand eight hundred and seven and of the Independence of the United States the thirty-second.

FREDERICK BATES.

OTHO SHRADEE.

JNO. COBURN.

AN ACT

Concerning Mortgages.

Mortgages
may petition
for sale of
mortgaged
premises
to com. pleas

BE it enacted by the Legislature of the Territory of Louisiana, That any person holding an instrument in writing, purporting to be a mortgage on lands and tenements, shall be permitted to sue out a petition to the court of common pleas of the district where the mortgaged property lies, stating in the same the instrument of writing containing the mortgage, and requiring the mortgagor, his heirs or representatives, to appear at the next succeeding court to shew cause why the mortgaged property should not be foreclosed, and the property therein mon-

ordered he sold for the payment of the debt due the petitioner : which petition shall be served on the defendant or defendants at least twenty days before the court to which the petition is made returnable, and if the defendant appears and files his answer the cause shall proceed as in ordinary cases at common law. If the defendant fails to appear and answer or it shall be certified by the return to the petition that the defendant cannot be found within the proper district, the court shall award an order of publication which shall notify the defendant that unless he appears on the first day of the succeeding term and proceed to trial that a decree will be entered against him ; and the said publication shall be inserted for two months in any newspaper in the territory, and in case there should be no newspaper printed in this territory, the same shall be posted up at the court house door for the same length of time.

how to be served,

proceedings where the defendant fails to appear and answer.

Sec. 2. And it shall be the duty of said court, when entering a decree for the sale of such mortgaged premises to postpone the sale to a day at least nine months distant from the time of filing the petition, within which period the mortgagor may on payment of the debt, interest, and costs, redeem his property.

When sale shall be made meaning of contracts to be pursued,

Sec. 3. All contracts containing a mortgage of personal property heretofore entered into shall be proceeded on in like manner as is herein before directed according to the true intent and meaning of such contracts.

The foregoing is hereby declared to be a law of the territory of Louisiana; and to take effect and be in force from and after the passage thereof.

In testimony whereof we Frederick Bates, secretary of the Territory of Louisiana, and exercising the government thereof, and Otho Shrader, and John Coburn, judges in and over the said Territory, have hereunto set our hands, at the town of Saint Louis, the twentieth day of October in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States the thirty-second.

FREDERICK BATES.

OTHO SHRADER.

JNO. COBURN.

AN ACT

In addition to an act entitled "an act establishing courts of justice and regulating judicial proceedings."

WHEREAS it will be more convenient to the inhabitants of the Territory of Louisiana in general, if the terms of the General Court are held at two different places,

May term of
Gen. Court
hereafter to

BE it enacted by the Legislature of said Territory, That the May term of the said general court, shall hereafter annually be

held at the town of Saint Genevieve, in the said territory, at such place as the said court may deem most proper in the said town : and it shall be the duty of the clerk of said court to keep an office at each place where the said court is held, and to attend therein either by himself or a deputy approved of by said court.

be at St. Genevieve.

Clk. to keep office there; &c.

Sec. 2. The clerk of said court or his deputy shall have power and be authorized to issue all manner of writs, process, and subpoenas at each of the respective offices, returnable to the next succeeding term of the said court.

Clk. or his deputy may issue writs from both offices, &c.

Sec. 3. So much of any act of this territory as is contrary to the provisions of this act, shall be and the same is hereby repealed.

Repealing clause.

The foregoing is hereby declared to be a law of the Territory of Louisiana, to take effect and be in force from and after the first day of January next.

When this act to be in force.

In testimony whereof, we Frederick Bates, Secretary of the Territory of Louisiana and exercising the government thereof, and Otho Shrader and John Coburn, judges in and over the said Territory, have hereunto set our hands, at the town of Saint Louis, the twentieth day of October, in the year of our Lord one thousand eight hundred and seven, and of the Independence of the United States of America the thirty-second.

FREDERICK BATES;

OTHO SHRADER.

JNO. COBURN.

AN ACT

Concerning Towns in this Territory.

Two thirds
of the inhab-
itants of any
town may by
petitioning
the court of
com pleas
become in-
corporated—

the metes
and bounds to
be inserted in
the petition ;

the court to
order the
same to
be surveyed
and marked,

and to ap-
point 2 com-
missioners to
superintend
the first elec-
tion of five
trustees.

commission-
ers to give
public no-

BE it enacted by the Legislature of the Territory of Louisiana, That it shall be lawful for the inhabitants of any town or village within this territory, or two thirds of them who are desirous to establish within the said town a police for their local government or for the preservation and regulation of the commons appertaining thereto, to present their petition for that purpose to the court of common pleas of the district wherein such town or village is situated, stating therein the metes and bounds of the said town and commons ; whereupon it shall be the duty of the said court after having ascertained that such petition or petitions were signed by at least two thirds of the taxable inhabitants residing within such town or village, to declare the said town or village incorporated under this act, and to order the metes and bounds stated in such petition, to be surveyed and marked, and a plat thereof to be filed of record, in the clerk's office : it shall also be the duty of the said court, to appoint two persons, inhabitants of such town, as commissioners to regulate and superintend the first election for five trustees, to be held in pursuance of this act.

Sec. 2. It shall be the duty of the commissioners to give within ten days after their appointment, public notice by advertisement

the time and place where the election for trustees is to be held: Provided, that such notice shall not be given less than ten days nor longer than twenty days previous to the election; the commissioners shall appoint a clerk, who shall write down the names of all persons whose vote has been received. The commissioners shall be judges of the election to be held by ballot; no person shall be entitled to a vote except free white male inhabitants, above the age of twenty one years, who have resided within such town one year preceding such election, and whose names are to be found on the district list of taxables. The election shall be kept open from ten of the clock in the forenoon, till five of the clock in the afternoon; each ticket shall contain the names of five persons for trustees; after the election is closed, the commissioners shall proceed to examine the tickets, and the five persons who have received the greatest number of votes, shall be by the commissioners declared to be elected as trustees, and a certificate thereof shall be filed within five days after the election, with the clerk of the court; the commissioners shall give notice to each of the persons elected; every person elected as trustee shall be qualified in the same manner as is provided respecting the electors; contested elections shall be decided by the court of common pleas, of the proper district in a summary manner; and if such elections are set aside by the court, a new election shall be held in the same manner as is herein before provided. The trustees elected by this act

time of time
and place of
election—

to appoint a
clerk—
his duty—

commissioners
to be judges
of election,
to be by bal-
lot—
qualification
of voters—

how long e-
lection to be
kept open—

when & how
the votes are
to be counted
persons hav-
ing the great-
est number of
votes to be
declar'd elec-
ted as trus-
tees—
certificate
thereof to be
filed with
clk. of court,
notice to be
given to each
of the persons
elected—
contested
elections
where to be
tried—
how new e-
lections are

to be held—
term which
the trustees
shall conti-
nue in office.

shall remain in office for the space of one year, and until the succeeding trustees are duly qualified.

When and
how succeed-
ing elections
are to be
held.

Sec. 3. Every year on the same day that the first election was held the inhabitants qualified as aforesaid, shall elect again five trustees in the same manner as is provided with respect to the first election, except that the duties to be performed by the commissioners, shall be performed by any two of the trustees.

Oath of of-
fice to be tak-
en by trust-
ees—

Sec. 4. Every trustee before he enters on the duties of his office, shall take an oath of affirmation before any judge or justice of the peace, well and truly to perform the duties of his office; the trustees or a majority of them, shall assemble within twenty days after the election, and choose a chairman out of their own number, and some other competent person to act as clerk; the board of trustees may thereafter fix the time of meeting or be convened by the chairman at any intermediate period, which he may conceive the public good requires their deliberations; a majority of the trustees shall be a quorum to do business but a smaller number may adjourn from day to day; they may compel the attendance of absent members in such manner and under such penalties as they may by ordinance provide; they shall settle the rules of proceedings, and may with the concurrence of four of the trustees, expel any member for disorderly behaviour or mal-con-

to convene
within 2 days
after election
choose a
chairman &
clerk;
fix the time
of meeting;
chairman
may convene
the trustees
on extra ne-
cessaries—
what number
shall make a
quorum to do
business—

trustees may
make their
own rules &
regulations;

not in office, but not a second time for the same offence; they shall keep a journal of their proceedings, and enter the yeas and nays on a question, resolve or ordinance at the request of any member, and their deliberations shall be public. Every ordinance shall be passed by at least three of the board of trustees.

Ordinances to be passed by at least three of the board.

Sec. 5. The board of trustees as aforesaid, shall have power and authority to pass bye-laws and ordinances to prevent and remove nuisances, to restrain or prohibit gambling; provide for licensing, regulating or restraining theatrical or other public amusements within such town; to prevent or restrain the meeting of slaves; to regulate and cleanse markets; to erect and repair bridges; to cause the streets to be cleared and repaired by the inhabitants thereof, and if any of them shall refuse to clear or repair the part assigned to them, the trustees may hire the clearing and repairing of the same, and levy and collect the price thereof on the persons so failing and refusing; to impose and appropriate fines, penalties and forfeitures, for breaches of their ordinances; to lay and collect taxes; to enact bye-laws for the prevention and extinguishment of fire; to regulate the enclosures of any common field belonging to, and within the limits of the said town; and to pass such bye laws for the regulation and good order of the place and common thereto appertaining, as they shall deem necessary, if not contradictory to the

Powers of towns incorporated under his law prescribed.

law fines, &c.
are to be re-
covered.

law of the land. All fines, penalties, and forfeitures imposed by the said trustees, not exceeding twenty dollars shall be recovered by the chairman of the board or by a justice of the peace, as debts not exceeding twenty dollars are by law recoverable: and if such fines, penalties and forfeitures exceed that sum, the same shall be recovered by action of debt, in the court of common pleas for the proper district, in the name of the trustees and for the use of such town.

Chairman of
the board to
publish bye-
laws, &c.

How long he
shall remain
in office;
in case of his
absence,
chairman
pro. tem. to
be appointed,
vacancies
how to be fil-
led.

Taxes may
be collected
by sale and
distress of
personal pro-
perty in cer-
tain cases;
no sale to be
made but on
previous no-
tice—

Sec. 6. It shall be the duty of the chairman of the board to publish the bye-laws and ordinances of the board, for the information of the inhabitants and to cause the same to be carried into effect; he shall remain in office for the time for which he is elected trustee, but in case of his absence at the meeting of the board, the board may appoint a chairman pro. tempore. Vacancies that may arise by the death, resignation, or removal out of the limits of the town of any trustee, shall be filled by a special election, ordered by the chairman of the board, after ten days public notice thereof given.

Sec. 7. The persons appointed to collect any tax imposed in virtue of the power granted by this act, shall have authority to collect the same by distress and sale of the goods and chattels of the persons chargeable therewith; no sale shall be made unless ten days previous notice thereof be given. No law shall be passed by the board, subjecting

vacant or improved lots or pieces of ground to be sold for taxes ; no tax shall be imposed by the board on real or personal property in the said towns, at a higher rate than one half of one per centum, on the assessment valuation of such property in any one year.

Sec. 8. It shall be lawful for the court of common pleas for the district of Saint Genevieve, upon application being made to them for that purpose, by the inhabitants of Saint Genevieve and New Bourbon, in manner as by this act is directed, to erect the aforesaid villages into one town, according to the provisions of this act.

Sec. 9. This act shall be in force from the date of the passage thereof, and shall continue in force until repealed or amended by the Legislature.

The foregoing is hereby declared to be a law of the Territory of Louisiana, to take effect accordingly.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas and Otho Shrader, judges, in and over the Territory of Louisiana, have hereunto set our hands at the town of Saint Louis, the eighteenth day of June, in the year of our Lord one thousand eight hundred and eight, and of the Independence of the United States of America the thirty second.

MERIWETHER LEWIS.

JOHN B. C. LUCAS.

OTHO SHRADER.

no law to be passed subjecting vacant or unimproved lots to sale ; limitation of the rate of taxation.

Towns of St. Genevieve & New Bourbon, may on due application, be erected into one town.

Commencement of this act, and how long to be in force.

AN ACT

Concerning the dower of widows and Marriage Contracts.

Widows may
tarry in the
mansion
place, &c.
rent free, un-
til her dower
be assigned ;

penalty for
deforcing
them of their
dower.

BE it enacted by the Legislature of the Territory of Louisiana, That a widow after the death of her husband, may tarry in the mansion place of her husband, and the plantation thereto belonging, rent free, until her dower shall be assigned her : and whoever shall deforce widows of their dowers, lands whereof their husbands died seized, or of such mansion house or plantation, shall pay damages to the same widow to the value of the whole dower to them belonging, from the time of the death of their husbands, until the day that they shall in due course of law recover possession of their dower.

on petition to
com. pleas or
ctk. thereof,
by widow, a
writ of dower
shall issue

to whom dis-
tested,

Sec. 2 Any widow claiming dower in lands or slaves, may present her petition, stating the circumstances of the case, to the judges of the court of common pleas of the district where the lands lie, or in which the slaves may be found of which she claims her dower, in term time, or file her petition, in vacation, in the clerk's office, whereupon it shall be the duty of the said court to order, or of the clerk in vacation to issue a copy of said petition, together with a summons directed to the person or persons against whom the complaint is made, commanding him or them to appear at the next term of the said court to answer the

complaint of such widow, which copy and summons shall be served at least ten days before the time appointed therein for the defendant or defendants to appear.

when to be served.

Sec. 3. The court to whom any such petition is presented may after the service and return of the summons aforesaid, compel the defendant or defendants to answer, and may proceed upon any such petition and answer although any of the defendants may be under the age of twenty one years, according to the course and rules of equity, and shall make such decree for the assignment of such dower in such manner as shall be most agreeable to equity: and such assignment of dower shall be as effectual, as if the same were in the ordinary methods of the common law.

mode of procedure after summons is served, according to rules in equity.

Sec. 4. *Provided* that if any material facts are asserted by one party and denied by the other, the court shall at the request of either party, cause such facts to be tried by a jury. And the same appeal from a final judgment or decision of the said courts of common pleas in any case made cognizable before them by this act, may be had to the general court as in other cases.

Certain facts which a jury may try.

party may appeal to Co. court.

Sec. 5. The same proceedings as are here in before provided with respect to dower shall be had for the purpose of carrying into effect any marriage contract, that may have been heretofore made, or shall be hereafter made in pursuance of any laws, usages and customs, now and hereafter in force within this territory.

Same proceedings on marriage contracts.

The foregoing is hereby declared to be a Law of the Territory of Louisiana to be in force from and after the passage thereof

In testimony whereof, we, Meriwether Lewis, governor and John B. C. Lucas and Otho Shrader, judges, in and over the Territory of Louisiana, have hereunto set our hands at the town of Saint Louis, the eighteenth day of June, in the year of our Lord one thousand eight hundred and eight, a day of the Independence of the United States of America the thirty-second.

MERIWETHER LEWIS.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

To provide for the laying out of Roads from the town of Saint Louis to the town of Saint Genevieve, from thence to the town of Cape Girardeau, and from thence to the town of New-Madrid.

Gov to ap-
point three
commission-
ers, to mark
out road from
St. Louis to

BE it enacted by the Legislature of the Territory of Louisiana, That the governor be authorized and required to appoint three proper persons, one of whom shall be a practical surveyor or commissioners, whose duty it shall be as soon after their appoint-

ment as may be, to lay out and designate by plain and distinguishable marks, on the nearest and best ground, a waggon road from the town of Saint Louis, to the town of Saint Genevieve, from thence to the town of Cape Girardeau, and from thence to the town of New-Madrid.

Sec. 2. The said commissioners are hereby authorized to employ two persons as chain carriers, and one marker.

Who may employ chain carriers, &c.

Sec. 3. The said commissioners shall make out as soon as may be after they shall have designated said road, an accurate plan of the same together with its several courses and distances, and such other remarks as they may deem proper for information, designating the distance through which said road is laid out in every district, and report the same to the governor to be laid before the legislature at their next meeting.

Com'rs to make plan of the same and report it to the gov. &c.

Sec. 4. Each commissioner shall receive in full for his compensation and expences the sum of three dollars for each day he shall be employed in laying out the road and returning to his place of abode. The surveyor shall receive in addition thereto a reasonable compensation for making out the platt and report as the governor may deem just. The chain carriers and marker shall receive in full for their compensation and expences each one dollar and fifty cents per day while employed in said business.

compensation to commissioners,

to surveyor,

to chain carriers and marker.

Sec. 5. The commissioners shall exhibit

Acct. to be
exhibited to
governor—

expence to
be apportion-
ed by him,

and paid by
the districts.

Two com-
missioners
by act,

their accounts to the governor for his appro-
bation, and when approved of by him, the
governor is authorised and required to ap-
portion the whole expence amongst the dis-
tricts through which the said road passes in
proportion to the distance, and draw his war-
rants on the treasurers of the said districts re-
spectively for the amount in favour of the
said commissioners, which money shall be
paid out of the respective district treasuries
forthwith.

Sec. 6. In case of sickness or unavoidable
accident the duties assigned to the said com-
missioners may be performed by any two of
them.

The foregoing is hereby declared to be a
Law of the Territory of Louisiana, to take
effect and be in force from and after the pas-
sage thereof.

In testimony whereof, we, Meriwether
Lewis, governor and John B. C. Lucas, and
Otho Shrader, judges, in and over the Ter-
ritory of Louisiana, have hereunto set our
hands at the town of Saint Louis, the twen-
tieth day of June, in the year of our Lord
one thousand eight hundred and eight, and of
the Independence of the United States of
America the thirty second.

MERIWETHER LEWIS

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

To incorporate the Trustees of the St. Genevieve Academy.

BE it enacted by the Legislature of the Territory of Louisiana, That James Mixwell, Jean Baptiste Vallé, Jaques Guibord, Saint James Beauvais, Francois Janis, Jean Baptiste Pratte, Joseph Pratte, Walker Fenwick, Andrew Henry, Timothy Phelps, Aaron Elliot, Nathaniel Pope, Joseph Spencer, junior, John Scott, William James, Thomas Oliver, Joshua Penniman, William Shannon, George Bullitt, Henry Dodge, and Harry Diel, shall be and they are hereby constituted a body politic and corporate, to be known by the name of "The trustees of the Saint Genevieve Academy, in the district of Saint Genevieve," and by that name shall have perpetual succession and a common seal.

Certain persons, made a body politic, and corporate by the name of the trustees of the St. Genevieve Academy.

Sec. 2. There shall be annually two stated meetings of the said board of trustees at the town of Saint Genevieve, to wit, on the first Mondays in July and December. The chairman of the board, with the advice or at the request of any three of the trustees, shall have power to call a special meeting, giving ten days previous notice thereof. Any nine of the said trustees at any stated, adjourned, or special meeting shall form a board or quorum, and a majority of them shall be capable of doing and transacting all the business and concerns of the academy, and par-

Stated meetings of the trustees;

special meetings may be called—

how many form a board and do business.

Powers of
trustees.

11-21-77

particularly of entering into contracts for erecting or repairing any building or building necessary for the said institution; of making and enacting bye laws and ordinances for the government of the said academy, not contrary to the constitution or laws of the United States, or the laws of this territory; of filling vacancies in the board of trustees, occasioned by death, resignation, or removal out of the territory; of electing and appointing the principal, professors, and teachers of the said academy; of agreeing with them for their salaries and stipends, and of removing them for misconduct or breach of the laws of the institution; of appointing committees of their own body to carry into execution all and every the resolutions of the board; of appointing a chairman, treasurer and secretary out of their own numbers; and stewards, managers and other necessary and customary officers for the taking care of the estate and managing the concerns of the institution — *Provided*, that all vacancies in the board of trustees shall be filled at a stated meeting of the board.

Further
powers of
trustees.

Sec. 3. The board of trustees shall have power to demand and receive the money, materials and labour already subscribed, or that may hereafter be subscribed; for the use of the said institution, and expend the same for the purposes of said academy, in such manner as they shall deem proper.

To establish
a female in-

Sec. 4. It shall be the duty of the trustees as soon as the funds of the academy will ad-

unit of it, to establish an institution for the education of females, and to make such bye laws and ordinances for the government thereof as they may think proper and necessary.

Sec. 5. The trustees shall be enjoined to cause at all times the English and French languages to be taught in the said academy, together with such other languages and sciences, as the funds of the institution and circumstances will admit.

English and French languages, &c. to be taught in said academy.

Sec. 6. The trustees shall be enjoined to cause the children of poor people, and the children of Indians residing in this territory and found qualified, to be instructed *gratis*: and to cause all the students to be educated *gratis* at the said academy in all or any of the branches of education, which they may require, whenever the funds of the institution shall, in the opinion of the trustees, permit these or either of these arrangements.

Trustees to cause poor children, &c. to be educated gratis, when, &c.

Sec. 7. As the extension of useful knowledge ought to be the only object contemplated by this institution, no preference shall be given, or any discrimination be made, in the choice of trustees, professors, teachers, or students on account of religious sentiments; nor shall the trustees, professors, or teachers, at any time make bye laws, ordinances, or regulations, that may in any wise interfere with, or in any manner controul the rights of conscience or the free exercise of religious worship.

No discrimination in trustees, &c. on account of religious sentiments.

rights of conscience not to be abridged.

trustees may
hold estates,
and dispose
of them.

Sec. 8. The said trustees and their successors by the name and Kyle aforesaid, shall be capable in law to purchase, receive and hold to them and their successors, any lands, tenements, goods and chattels of what kind soever the same may be, which shall be given or devised to, or purchased by them, for the use of the said academy, and shall sell and dispose of the same in such manner as shall seem most conducive to the interest of the said academy.

When this
act is to be in
force, &c.

Sec. 9. This act shall be in force from the date of the passage thereof, and shall continue in force until repealed or amended by the legislature.

The foregoing is hereby declared to be law of the Territory of Louisiana, to be in force accordingly.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas and Otho Shrader, judges, in and over the Territory of Louisiana, have hereunto set our hands at the town of Saint Louis, the twenty-first day of June, in the year of our Lord one thousand eight hundred and eight, and of the Independence of the United States of America the thirty second.

MERIWETHER LEWIS,

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

Concerning Strays.

BE it enacted by the Legislature of the Territory of Louisiana, That every person who shall take up any stray horse, mare, or colt, shall within ten days take the same before some justice of the peace of the district where such stray shall be taken up, and make oath before him, that the same was taken up at his or her plantation and place of residence in said district, and that the marks and brands have not been altered since the taking up, and that he or she verily believes that such stray has not been permitted to run at large by the consent of the owner. The said justice shall then issue his warrant, to three disinterested householders in the neighbourhood, unless they can be otherwise had, causing them to come before him to appraise said stray, after they or any two of them have been sworn to appraise such stray without partiality, favor or affection; which appraisement, together with the marks, brands, stature, colour, and age of such stray, shall be entered in a book to be kept by such justice, and certified under his hand, and transmitted by the taker up of such stray to the clerk of such district within fifteen days after the same is taken, which clerk shall enter the same in a book to be by him kept for that purpose, and the taker up shall pay to the justice twenty-five cents, and to the clerk twelve and a half cents for their respective services.

Persons taking up stray horse, etc., how to proceed—

duty of justice of the peace when stray is brought to him—

duty of the clerk,

his and justice's fees,

Persons tak-
ing up neat
cattle, sheep,
etc. how to
proceed—

duty of jus-
tice—

fees of jus-
tice and clk.
duty of clk.

Proviso—

further
proviso—

Sec. 2. Any person who shall take up any head of neat cattle, sheep, or hogs, shall cause the same to be viewed by some householder of the district where the same shall happen, and shall immediately go with such housekeeper before a justice of the district, and make oath before him as is required of him or her taking up a stray in the first section of this act. And then such justice shall call for from such housekeeper upon oath a particular description of the marks, brands, color, and age of every such stray, and shall call the said stray or strays to be appraised in the manner as in the case of a horse, mare, or colt, which description and appraisement shall be entered by such justice in a book to be kept by him as aforesaid, and transmitted to the taker up of said stray or strays to the clerk of such district as aforesaid, and the taker up shall pay to the justice twenty-five cents, and to the clerk twelve and a half cents for their services. And the clerk shall cause a copy of such description and appraisement to be publicly affixed at the court house door of the district on three several days after the same shall be transmitted to him, for each of which he shall receive the same fees as for entering the same in a book. *Provided* that if two or more strays of the same species are taken up by the same person at the same time, they shall be included in one entry and in one advertisement, and in such case such justice and clerk shall receive no more pay than for one of such species. *Provided also*, that no person shall take up and post any head

neat cattle, sheep or hogs between the first day of April and the first day of November following, unless the same be found within the lawful fence or enclosure of the taker up, or being broken in the same.

Sec. 3. As a reward on taking up, there shall be paid by the owner two dollars for every horse, mare or colt, and for every head of neat cattle fifty cents, and for every sheep, and for every hog above a year old twenty cents, and all legal and reasonable charges, which said charges when the parties cannot agree on the same, shall be ascertained and fixed by some justice of the peace of the same district in which the stray had been taken up.

Reward to the taker up ect.
with charges of keeping, etc and how assessed.

Sec. 4. Every person taking up a stray horse, mare or colt, shall within two months after the same is appraised, provided the owner shall not have claimed his property during that time, transmit to the printer of some public newspaper printed within this territory, a particular description of such stray or strays and the appraisalment thereof, together with the district and place of residence certified by the clerk, or by the justice before whom such stray was appraised, to be inserted in such paper three weeks successively, for the advertising of which the printer shall receive his usual and stated price for inserting advertisements in his newspaper.

Taker up to cause stray horse etc. to be advertised in newspaper

Sec. 5. If no owner appears and proves his property within two years after such publication, the same shall be vested in the State.

ker up after
2 years.
provide.

penalty for
selling, etc.
stray.

penalty on
taking stray
out of district
unless, etc.

Owner of
neat cattle,
etc. not prov-
ing property
in 12 months
the same to
be vested in
taker up, un-
less, etc.

lication, the same shall be vested in the
up. *Nevertheless*, the former owner may
any time thereafter by proving his prop-
erty recover the said stray, or the appraised
value thereof, at the choice of the taker up.

Sec. 6. If any person shall trade, or
take away, or shall attempt to trade, or
take away out of the territory for any pur-
pose whatever, any such stray aforesaid,
he shall for every such offence forfeit and
pay a sum not exceeding double the appraised
value thereof, to be recovered by any person
suing for the same in any court, having com-
mencement thereof, one half to the informer,
the other half to the territory. And the
taker up of any stray as aforesaid, being
authorized to remove out of the district in which
the stray has been taken up into any other district
in this territory, shall not take such stray out of
the district in which he has thus entered, or
take such stray, until he or she shall, at least
thirty days before such removal, have entered
his or her intention of thus removing with the
stray out of the district from which he intends to re-
move, under the penalty of paying a sum not ex-
ceeding the appraised value of such stray or
strays to be recovered as is before provided in this
section.

Sec. 7. Where the owner of any he-
neat cattle, sheep or hog, does not prove
his property within twelve months after the
same has been published at the door of the
house, the property shall be vested in the
taker up, but the former owner may at any
time thereafter by proving his property

the said stray, or the appraised value at the choice of the taker up.

Sec. 8. If any stray taken up as aforesaid die or get away without the fault or neglect of the taker up before the owner shall claim his right, the taker up shall not be answerable for the same. Stray dying etc. to be the loss of the owner,

Sec. 9. If any person shall take up any stray at any other place than at his or her station or place of residence, or having taken up any stray and fails to comply with the provisions of this act, he shall for every such offence be forfeit and pay to the party injured, a sum not exceeding the value of such stray, and the costs to be recovered before any justice of the peace or court having jurisdiction thereof. penalty for certain offences against this act.

Sec. 10. Every person desirous to exempt his horses, cattle or flock of any description from the operations of this act, may be permitted to deliver a list with a description of such horses, cattle or flock, to two justices of the peace, within that part of the district in which the said horses, cattle or flock, are accustomed to range, or to the clerk of the district, and in such cases the horses, cattle, or flock contained in the list aforesaid shall be exempted from the operations of this act, within the district in which the said list is filed. How owners of horses etc. may exempt them from the operations of this act.

The foregoing is hereby declared to be a law of the Territory of Louisiana, to be in force from and after the first day of January next. When this act is to be in force.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas, and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set our hands at the town of Saint Louis, the twenty first day of October in the year of our Lord one thousand eight hundred and eight, and of the Independence of the United States of America the thirty third.

MERIWETHER LEWIS

JOHN B. C. LUCAS,

JNO. COBURN,

AN ACT

Regulating enclosures, and for preventing trespasses therein.

What shall
be deemed
a fence suf-
ficient in law,

BE it enacted by the Legislature of the Territory of Louisiana, That all houses and grounds kept for enclosures shall be well enclosed with a fence sufficiently close, composed of sufficient posts and rails, posts and railings, palisadoes, or rails alone laid up in the manner which is commonly called a worm fence; which posts shall be deep set and strongly fastened in the earth; and all fences composed of post and rails, post and railings or palisadoes or of rails in manner which is commonly called worm fence, shall be at least five feet and six inches high, the uppermost

rail of each and every pannel of the kind last named shall be supported by strong stakes, strongly set and fastened in the earth so as to compose what is commonly called flaking and riding; otherwise the uppermost rail of every pannel of such worm fence, shall be braced with two strong rails, poles or stakes, locking each corner or angle thereof; and that in all worm fences the worm of the same shall be at least one third of the length of the rails which compose the respective pannels thereof.

Sec. 2. If any horse, gelding, mare, colt, male or ass, sheep, lamb, goat, kid, or cattle, shall break into any persons enclosure the fence being of the height and sufficiency aforesaid—or if any hog, shoat or pig, shall break into the same, the owners of such creature or creatures shall for the first trespass make reparation to the party injured for the true value of the damages he shall sustain, and for every trespass afterwards, double damages to be recovered with costs before a justice of the peace, or in any court of record having cognizance of the sum demanded by the party injured. *Provided*, that for a third offence from any of the beasts aforesaid, breaking into such enclosure, the party injured may kill and destroy the beasts so trespassing without being answerable for the same.

Owners of trespassing animals liable,

to what amount for first offence,

for 2d, etc.

proviso.

Sec. 3. Upon complaint of the party injured to any justice of the peace of the district, such justice shall issue his order with-

Duty of justice on complaint of trespass

pass, done
and proceed-
ings thereaf-
ter.

out delay to three house holders of the neighborhood, no ways related to the party injured, nor interested concerning the trespass, reciting the complaint, and requiring them to view the fence where the trespass is complained of, and to take memorandums of the same and their testimony in such case shall be good evidence on trial touching the lawfulness of the fence.

Penalty for
wounding or
killing animals in certain cases.

Sec. 4. If any person damnified for want of such sufficient fence, shall hurt, wound, lame, kill or destroy, or cause the same to be done, by shooting, hunting with dogs or otherwise, any of the creatures in the second section of this act mentioned—such person shall satisfy the owner of such creatures so hurt, wounded, lamed, killed or destroyed double damages with costs recoverable as aforesaid.

When this
act is to be in
force.

The foregoing is hereby declared to be a Law of the Territory of Louisiana, to take effect and be in force from and after the first day of January next.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas, and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set our hands at the town of Saint Louis, the twenty-seventh day of October, in the year of our Lord one thousand eight hundred and eight,

and of the Independence of the United States
of America the thirty third.

MERIWETHER LEWIS,

JOHN B. C. LUCAS,

JNO. COBURN.

AN ACT

*Regulating the manner of selecting and re-
turning jurors in certain cases.*

BE it enacted by the Legislature of the Territory of Louisiana, That the several courts of common pleas within this territory at their first term in every year, shall cause the collector of the district taxes to lay before them the list or lists of taxable property, as well real as personal within their district for the preceding year; and from the list or lists so produced they shall cause the clerk of the court to form an alphabetical list or roll of the names, surnames, callings, occupations or other additions, and places of abode, of all free male white persons, residing within the district who shall not be under the age of twenty one years, whose estate within the district, whether real, personal or mixed, shall be rated on the said list of taxable property to one hundred dollars or more, to serve as jurors for such district: which list shall be fairly entered and kept in a well bound book, and shall from time to time be corrected in

Collector to lay tax list before common pleas, annually.
Clerk. to make roll or list therefrom
qualification for persons to serve as jurors.

such manner as may be necessary for rendering the same a complete list of persons qualified to serve as jurors, according to the directions of this act.

Manner in which jurors shall be selected to serve in general court.

Sec. 2. The judges of the said courts respectively at their session next preceding every term of the general court of this territory shall select from the whole list of persons qualified to serve as jurors as aforesaid, sixty honest and intelligent house holders, farmers, merchants and traders, inhabitants of this territory, not being clergymen, practitioners of physic, or attorneys of any court, sheriffs or their deputies, ferry keepers, or constables, or such as be or be reputed persons of ill fame, but altogether such as be of the best fame, reputation and understanding and credit in their district. And furthermore the said judges shall not select any person as aforesaid, whom the said judges or any of them shall know or have good reason to believe to be a party, prosecutor, plaintiff or defendant in any suit or controversy whatsoever depending in or about to be brought before the said general court. And if any person of ill fame by chance or otherwise be of the pannel for the trial of any issue joined upon any suit or controversy whatsoever in the general court, it shall be good cause of challenge, before the person so liable to be challenged be sworn, but not after. From the whole number of said house holders, farmers, merchants and tradesmen so selected by the judges aforesaid, whose names shall be written upon separate pieces of paper of

the same size and rolled up alike, the clerks
in the presence of the said judges and of the
jurors and others attending the said courts,
shall draw by lot the names of twenty-four
persons, that is to say, in the district of Saint
Charles and Saint Genevieve each six, in the
districts of Saint Charles, Cape Girardeau,
and New Madrid each four, as jurors for
the said districts respectively at the next suc-
ceeding general court, and every name so
drawn shall be immediately pronounced a-
loud by the said clerks, in the presence of the
said courts and of all persons there attending.
The clerks of the said courts shall immedi-
ately issue writs of *venire facias*, wherein
shall be written at full length, the names, sur-
names, surnames, occupations or additions and
the places of abode of the persons so chosen,
directed to the sheriff and commanding him
to summon the persons therein named to at-
tend the said general court, which writ the
sheriff shall execute accordingly under
the penalty of one hundred dollars unless
cause be shown by him for such omis-
sion at the next general court, and under the
same penalty in case he shall return any person
summoned who shall not have been actu-
ally summoned by him. Every person so cho-
sen to serve as a jurymen shall be summoned
at least ten days before the sitting of the gen-
eral court which he shall be required to at-
tend and the sheriff shall return his writ or
certificate to be returned to the office of the
clerk of the general court one day at least be-

to be drawn
by lot

number from
districts res-
pectively

Venire facias
to be issued
by clerk.

directed to
sheriff;

penalty on
him for not
executing it,
etc.

Jurors who
to be sum-
moned;

penalty on
sheriff for not
returning

Venire to clk. fore the sitting of the court, under the pen-
of G. C. ty of one hundred dollars. Every juror w

Juror not at- shall be summoned and shall fail to atten-
tending, &c. without a reasonable cause for so doing
to be fined, attending and afterwards departing with-
leave of the court, shall be fined at the
cretion of the court in any sum not exceeding
twenty dollars.

Clk. of G. C. Sec. 3. The clerk of the general cou-
to keep a roll shall enter the names of all persons summon-
of jurors, ed to attend as jurors in a book to be kept
for that purpose with their surnames, calling
occupations, additions, and the names
their districts, and places of abode, dis-
guishing such as make default, or depart
without leave of the court, from such
give their attendance, and noting their time
of service respectively, and at the expiration
of the term, or when at any time a juror shall
be dismissed by the court, he shall be en-
titled to receive from the clerk a certificate
his travelling distance, and attendance, for
which he shall be paid the sum of seven
five cents for every day he has been attend-
ing, and three cents per mile for every mil-
distance in going and returning from the place
where he resides to the place where the gen-
eral court is sitting, out of the treasury of the
district wherein he resides. But no juror
who shall depart without leave of the court
or being summoned as a witness shall charge
for his attendance as such, shall be entitled
to receive any certificate for his compensa-
tion for his services as a juryman.

and give
them certifi-
cates,

their com-
pensation,

how paid—

Sec. 4. If at any time a grand jury should be required at the general court, out of the whole number of jurors who attend the said court, the clerk shall under the direction of the court, draw by lot, the names of not less than sixteen, nor more than twenty-three to serve as a grand jury for the body of the territory.

How G. Jury shall be selected for the G. C.

Sec. 5. For the trial of all criminal prosecutions, and of all civil suits in the general court, the name of each and every person summoned and returned as before directed shall be written on several and distinct pieces of paper, with his addition and place of abode and being rolled up by the clerk as near as may be in one and the same manner and of equal size, shall be deposited in a ballot box for that purpose to be kept, and when any cause shall be brought to be tried, the clerk shall draw out twelve of the said papers one after another; and if any of the persons whose names shall be so drawn, do not appear, or be challenged and set aside, such other number shall be drawn as shall make up the number twelve who do appear and be approved as indifferent, who shall thereupon be sworn of the jury to try such cause. The names of the persons so drawn and sworn shall be kept apart by themselves in another box, until such jury shall have given their verdict, and the same be recorded, or the jury by consent of the parties or by leave of the court be discharged; and then the said names shall be again rolled up and returned

manner of selecting traverse juries in the G. C.

to the former box. If any other cause be brought on to be tried, the jurors for trial shall be drawn in like manner from the residue of the names in the ballot box. A juror for not answering to his name, or a juror who being solemnly called, shall not appear and answer to his name immediately, may be fined in the discretion of the court not exceeding ten dollars for his contempt; and if he shall do the like a second time he shall be considered as a departure without the leave of the court.

Certain persons to be exempt from serving for certain times on jury—

Sec. 6. Every person summoned and attending any general court who shall thereafter obtain a certificate in the manner by this act directed, shall thereby be exempted from the like duty for the space of two years, and when he shall have obtained a certificate of his attendance as a juror in the court of general sessions and terminals, common pleas, or quarter sessions of the peace in the district, he shall thereby be exempted from serving as a juror at the next term thereafter of such courts respectively. And that the rotation of duty may be the more easily known, the clerk of the district shall carefully enter against the name of every person in the jurors roll or list, the time or times when he shall have been summoned, pursuant to the direction of this act.

Manner of selecting jurors for courts of

Sec. 7. The judges of the courts of common pleas, at the end of every session thereof, shall select one hundred and forty-four persons, whose names are entered on the jur-

jurors or list, who have not served as jurors in the courts of oyer and terminer, common pleas, or quarter sessions of the district, at the term last preceding of such courts, or either of them, if so many there be as to exhaust of such exemption, from which number the names of twenty-four persons shall be drawn by lot from the ballot box by the clerk under the direction of said court, in the same manner as jurors are drawn to serve in the general court, to serve as jurors for the district, at the next succeeding term of the court of common pleas and quarter sessions who shall be summoned in like manner as is directed in the former case. And the sheriff to whom such writ shall be directed, and every person by him summoned, shall in case of neglect or disobedience to such writ be subject to the same penalties as are herein before imposed in case of neglect or disobedience to a summons commanding their attendance in the general court.

com. pleas &
Q. sessions.

how to be
summoned;

penalty on
sheriff and jurors
for neglect, etc.

Sec. 8. Whenever a precept for holding a court of oyer and terminer shall be directed to the sheriff of any district, it shall be the duty of one of the judges of the court of common pleas, living nearest to the court-house, upon due notice given to him by the sheriff or his deputy, to meet at the office of the clerk of the said district; and there in the presence of the clerk and sheriff or their deputies, to draw by lot from the aforesaid number of one hundred and forty-four persons the names of forty-eight persons to serve

Manner of
selecting jurors
for
courts of Oyer and terminer,

how to be
summoned,

penalty on
shff. and ju-
rors for ne-
glect, &c.

penalty on
shff. and clk.
failing to do
their duty,

finer how ap-
propriated.

as jurors in the said court of oyer and terminer, who shall be summoned in like manner as is directed respecting the general court, and the sheriff to whom such writ shall be directed, and every person by him summoned shall in case of neglect or disobedience to such writ, be subject to the same penalties as are herein before imposed in cases of neglect or disobedience to a summons commanding their attendance in the general court. In case the said judge is prevented by sickness, or other accident, to attend at the office of the clerk as aforesaid, the duties by this section required of him shall be performed by any two discreet house holders of the district, who shall be selected and notified by the clerk for that purpose. And if any sheriff, clerk or collector shall fail or neglect to perform the duties required of him by this act, not otherwise before provided for, he shall for every such offence forfeit and pay any sum not exceeding one hundred dollars; all fines exceeding twenty dollars accruing under this act shall be recovered in any court having jurisdiction thereof, the one half to the informer and the other half to the use of the district in which the offence has been committed.

Number of
G. Jurors, &
how selected
for oyer and
terminer and
Qr. sessions,

Sec. 9. Of those who shall attend in obedience to such summons at a court of oyer and terminer or quarter sessions, not less than sixteen nor more than twenty three shall be impanelled as a grand jury for such district, who shall be sworn to enquire into the

breaches of the penal laws, made cognizable in the said courts respectively, and make presentment of the offenders. And the residue of the said jurors together with those sworn of the grand jury when not necessarily acting as such, shall serve as petit jurors and shall be empannelled, elected, tried and sworn, in the same manner as is herein before directed; but no grand juror shall be of the petit jury, on the trial of any indictment found by a grand jury of which he was a member.

their duties,

traverse jurors how selected, etc. in com. pls. etc.

Sec. 10. Every juror attending a court of oyer and terminer, court of common pleas, or quarter sessions, shall be entitled to a certificate of his attendance, and receive out of the district treasury fifty cents for every day he has been attending as such.

Compensation to jurors in courts of oyer and terminer, com. pleas, etc.

Sec. 11. Every person summoned to attend any court as a juror and attending accordingly, shall be exempted from arrests and all other process in civil cases, except writs of subpoena for witnesses, during his attendance and one day for every thirty-three and a third miles that he shall necessarily travel in going and returning from court.

Jurors while attending, etc. exempt from arrests, in civil cases,

Sec. 12. Bye standers may be impannelled on a jury if a sufficient number of those summoned do not appear. If by any accident a sufficient number of jurors either grand or petit do not attend any court, agreeable to the directions of this act, the court may

Bye-standers may be taken as jurors in certain cases,

Direct the sheriff to summon a sufficient number of such persons as are most convenient, and the court shall give the same directions in all cases where a jury cannot be otherwise obtained.

Jurors fees
under former
act, to whom
and when to
be paid.

Sec. 13. The fees allowed to jurors by the act of this territory entitled "An act ascertaining the fees of the several officers and persons therein named, and regulating the payment of costs on indictments," shall be deposited with the clerk of the court in which the verdict of the jury is recorded, and be by him paid to the respective jurors, who are entitled to the same, at the time of their respective discharge from attending the said court at the end thereof.

Repealing
clause.

Sec. 14. So much of any act of this territory as is contrary to this act shall be repealed.

When this
act is to be in
force.

The foregoing is hereby declared to be Law of the Territory of Louisiana, to take effect and be in force from and after the first day of January next.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas, and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set our hands at the town of Saint Louis, the twenty-eighth day of October, in the year of our Lord one thousand eight hundred and eight, and of

the Independence of the United States of America the thirty third.

MERIWETHER LEWIS,

JOHN B. C. LUCAS,

JNO. COBURN.

AN ACT

Supplementary to an act entitled " an act concerning insolvent debtors."

BE it enacted by the Legislature of the Territory of Louisiana, That it shall be the duty of every petitioning debtor to deliver or cause to be delivered, previous to his discharge, to the sheriff of the proper district all his property, and also give every information he possesses necessary to obtain his property, or any part thereof, together with his books, title papers and evidences of debts of every kind, and the said sheriff shall certify the same to the judge to whom the debtor has petitioned.

Insolvent debtor before his discharge to deliver all his property to the shiff.

to be certified to judge.

Sec 2. The property, books, title papers, and evidences of debts so delivered to the sheriff shall be kept by such sheriff in trust and for the use of the creditors of the said debtor or delivered by him to the trustee that may be appointed by the creditors, and disposed in such manner as is provided by the

property how to be disposed of—

proviso— fifth section of the act to which this is a supplement, saving to the wife of the insolvent debtor and to all other persons their legal rights.

Mode of procedure on suggestion of a creditor that debtor has acted fraudulently, etc. Sec. 3. If any creditor, at any time within one year after the application of such debtor or shall alledge on oath and in writing to the general court or to the court of common pleas, within whose jurisdiction such debtor may be found, that such debtor had at the time of his application, directly or indirectly conveyed lessened, concealed or disposed of any part of his property, rights or credits, with intent to give a preference to any creditor or creditors, or any security; the said court shall thereupon order notice of such allegation, to be given in writing to the debtor, and upon his appearance before them, or on his neglect to appear, after proof that notice has been served, the said court shall without delay, direct an issue or issues to be tried by a jury in a summary way, without the form of an action, to determine the truth of the same. And if upon the answer to the said interrogatories, or upon the trial of the issue or issues, such debtor shall be found guilty of any fraud or deceit towards his creditors or of having given any preference as aforesaid, he shall be precluded from any benefit under the law to which this is a supplement. And in case such debtor or any other testifying either for or against him shall at any time thereafter be convicted of falsely, wilfully and corruptly, swearing or affirming

debtor, etc. convicted of swearing falsely, to be

to any matter or thing in virtue of this act or of the act to which this act is a supplement, shall suffer as in case of wilful perjury, and upon such conviction of the debtor, he shall be forever precluded from any benefit under the act to which this act is a supplement.

punished as
for wilful
perjury—

Sec. 4. No person shall be discharged under the act to which this act is a supplement until he shall have remained in prison at least twenty days. And when a creditor shall not reside within the district the most public notice of the intended application shall be given either by a publication for two weeks in some newspaper within this territory, or by causing an advertisement to the same effect to be posted up at the court-house door of the district for at least two weeks, in case there is no newspaper in the territory.

Debtor to re-
main in pri-
son 20 days
before his
discharge—

how certain
creditors
shall be noti-
fied.

Sec. 5. Any part or parts of the act to which this is a supplement which are repugnant to the provisions contained in this supplement are hereby repealed.

Repealing
clause.

Sec. 6. This law shall be in force from and after the passage thereof,

Law in force
from passage

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas, and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set our hands at the town of Saint Louis, the first day of November, in the year of our Lord one thousand eight hundred and eight, and of the

Independence of the United States of America the thirty third.

MERIWETHER LEWIS

JOHN B. C. LUCAS,

JNO. COBURN,

AN ACT

For the partition of Lands.

How partition may be obtained—

what notice to be given—

Com. pleas to appoint commissioners to make

BE it enacted by the Legislature of the Territory of Louisiana, That where any one or more persons proprietors of any tract or tracts, lot or lots of land within this territory, are desirous of having the same divided, it shall and may be lawful for the court of common pleas of the district where such lands or lots may lie, on the petition of either party, notice of such application having previously been given, for at least four weeks by the parties so applying to the parties interested, in case they reside within the territory, or if they do not reside in the territory, such notice shall be given in some one of the public newspapers printed in this territory, if one is published therein, if not, in some one of the public newspapers printed in some adjoining state or territory, to appoint not less than three nor more than five respectable house holders residents of said district, or related to either of the parties, as commis-

ers for deviding the said tract or tracts, partition,
 or lots of land. The commissioners so
 appointed shall previously to their entering
 their duty, take an oath or affirmation, ho- who are to
 elly, and impartially to execute the trust take oath.
 imposed in them as commissioners aforesaid :

Sec. 2. The said commissioners shall pro- duty of com-
 ceed to the premises and make division of the missioners to
 land, lots, tenements and hereditaments as make parti-
 directed by the court among the owners and tion
 proprietors thereof according to their respec-
 tive rights, which said partition being made
 by the said commissioners or a majority of
 them, and return thereof being made in and return
 writing under their hands to the said court same to court
 particularly describing the lots or portions al-
 lotted to each respective owner or proprietor,
 mentioning which owner or owners, proprie-
 tor or proprietors are minors if any there shall
 which return being acknowledged by the
 commissioners or a majority of them in open
 court, or before one of the judges of the
 court, and approved of by the court, shall be
 entered and recorded by the clerk, and shall
 be a partition of such lands, lots, and tene-
 ments, therein mentioned. *Provided*, that
 where any one or more person may hold any proviso.
 tracts or lots of land through which a district
 line may run, it shall be lawful that applica-
 tion may be made under this act to the court
 of either of the districts in which the land
 may lie. And the report and proceedings of
 the commissioners shall be recorded in the
 respective courts of the districts in which the
 land may lie.

Sec. 3. Where any houses and lots or lands

Proceedings
when parti-
tion cannot
be made.

are so circumstanced that a division can-
not be had without great prejudice to the prop-
rietors, and the commissioners appointed to
divide the same shall so report to the court, that
the court shall thereupon order the said com-
missioners to sell such house and lots, or land
at public vendue. And the said commis-
sioners or a majority of them, having after pub-
lic notice given, sold the same to the highest
bidder, shall make and execute conveyances
to the purchaser or purchasers thereof, which
shall operate as an effectual bar against
such owners or proprietors and all persons
claiming under them; and the monies arising
therefrom, shall be paid by the said com-
missioners to the owners or proprietors, to
guardians or legal representatives as directed
by the court, saving and retaining all the legal
rights of others.

compensa-
tion to com-
missioners.

Sec. 4. The said commissioners so appointed
shall be entitled to receive from the person
making the application, the sum of one
dollar and fifty cents for every day they
be employed in effecting such division.

Guardians
may act for
their ward's
under this
act.

Sec. 5. The guardians of all minors shall
be and are hereby authorized, on behalf of
any minor whose guardian they are, to do and
perform any matter or thing respecting the
division of any lands, tenements, or heredi-
taments, as is herein directed, which shall be
binding on such minor, and be deemed
valid to every purpose, as if the same had
been done by such minor after he had arrived
at full age.

Sec. 6. No division or sale shall be made by order of any court as herein directed, contrary to the intention of any testator as expressed in his last will and testament. When partition shall not be made,

Sec. 7. Any party finding himself aggrieved by any order of the court of common pleas, made under this act, may appeal therefrom to the general court. The general court after affirming or reversing the order of the court of common pleas, shall enforce their decree on the record of the court below, and remand the same to such court of common pleas to be carried into execution. *Provided*, that every appeal, to the general court, shall be made and entered at the same term in which the order was made by the court of common pleas. appeal granted to party aggrieved,

The foregoing is hereby declared to be a law of the Territory of Louisiana, to take effect and be in force from and after the passage thereof.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas, and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set our hands at the town of Saint Louis, the second day of November in the year of our Lord one thousand eight hundred and eight, and of the Independence of the United States of America the thirty third.

MERIWETHER LEWIS,
JOHN B. C. LUCAS,
JNO. COBURN.

AN ACT

Regulating the proceedings to Outlawry.

Writs of *capias* to be issued against persons indicted for certain crimes.

to whom to be directed,

when to be delivered to officer.

If returned *non est*, an

BE it enacted by the Legislature of the Territory of Louisiana, That if any person shall be legally indicted in any case of criminal jurisdiction within this territory of murder, arson, rape, robbery or burglary or as accessory before the fact to any of the same offences, and shall not appear to answer such indictment, or having appeared shall escape before trial, and the same proceedings shall be removed by writ of *certiorari* to the supreme or general court of this territory shall and may be lawful for the same court to award a writ or writs of *capias*, directed to the sheriff of the district where the person shall be charged to have been committed. And if the party indicted, is supposed to be in any other district, then also to the sheriff of such district, which writs shall be delivered to the sheriff or sheriffs at least two months before the return day thereof, commanding the said sheriff or sheriffs to have the person indicted as aforesaid, if found within the bailiwick, and him safely keep, so that he may have his or her body before the judges of the said general court at the next term of the general court, to answer to the said indictment, or prosecute his or her travel thereupon, as the case may be, and to be thereafter dealt with as the law shall direct. And if such sheriff or sheriffs shall return that the

person in the said writ named cannot be found in his bailiwick, then the said court shall award a second writ of *capias*, which shall be delivered at least three months before the return day thereof, to the sheriff of the district where the fact shall be charged to have been committed. And if the party indicted shall be supposed to be in any other district, then another writ of *capias* shall also issue and be delivered at least three months before the return thereof, to the sheriff of such district; by which said writ, the said sheriff or sheriffs shall be commanded as in the first writ. And further, if the person indicted cannot be found in his or their bailiwick, then to cause public proclamation to be made on three several days, in one of the courts of quarter sessions of the peace to be held for the said districts respectively, between the *teste* and the return days of the writ or writs, that the party so indicted shall appear before the judges of the general court, at the return of the said writ, to answer such indictment or to prosecute his or her traverse thereof, or through default thereof, he or she will at the return of the same writ or writs, be *outlawed*, and stand convicted of the crime whereof he or she was indicted as aforesaid. And the said second writ of *capias* directed to the sheriff of the district, where the crime hath been or shall be charged to have been committed, shall contain a further clause, commanding the same sheriff in case the person indicted cannot be found in his bailiwick, to cause a copy

alias to be
awarded,

and,
if not found
then, procla-
mation to be
made, &c.

of the said second writ of *capias* to be published in some newspaper printed in this territory, and if there be no newspaper printed in this territory, then in some adjoining territory, once a week in four successive weeks. And if upon the return of the said writ or writs last mentioned, by the said sheriff or sheriffs, that the directions of the said writ or writs has been fully complied with and pursued, the person indicted as aforesaid shall not yield himself or herself to the said sheriffs, so that he may have his or her body before the judges of the said general court, at the day and place as directed by the said writ, or having surrendered himself or herself, shall escape from his custody, having been bailed on his or her surrender, *caption*, shall not appear, so that through want of his or her appearance at the time and place the said general court shall appoint, for his or her trial, no trial of his or her offence shall be had, the general court shall in either of those cases, pronounce and declare the said person indicted as aforesaid, and not appearing at the time and place appointed for his or her trial as aforesaid, to be *outlawed*, and convicted of the crime whereof he or she has been indicted as aforesaid; and at the same time the said general court shall declare the legal punishment for the same crime. And whensoever imprisonment shall be ordered of the sentence for any of the said offences, the term thereof shall commence from the time the person *outlawed* shall, subsequent to his or her *outlawry*, actually be in the custody

Not appearing on 2d *capias* to be outlawed,

punishment,

custody of the sheriff of the district where the offence is stated to have been committed, such sentence shall be fully and particularly entered upon the records of the said general court. And the said sentence of *outlawry* shall have the legal effect of a judgment upon a verdict or confession, against the person so *outlawed*, for the offence whereupon he or she shall have been *outlawed*, unless and until the same *outlawry* shall be afterwards reversed by the judgment of the same court of the nature of a writ of *error*.

sentence to
be entered on
records fully,

Sec. 2. When any person *outlawed* as aforesaid, shall be taken either by *capias ut delictum*, or otherwise, or being in the sheriff's custody, shall be brought to the bar of the general court, the court shall upon the suggestion and motion of the attorney general award execution to be done upon him or her, unless the prisoner shall plead either *ore tenus* or in writing as his or her counsel shall advise, that he or she was not the person who was *outlawed*, or shall assign error in fact, or in law sufficient to prevent the award of execution; in which case the court shall proceed to determine the same either by an inquest, or by their own judgement, agreeably to law. And the prisoner shall by such plea, have all the advantage and benefit of all legal motions in his or her favor, as if he or she had brought a writ of *error*, and had assigned the several matters pleaded as errors.

Proceedings
when person
outlawed ap-
pears,

Sec. 3. If any person *outlawed*, shall within the space of one year next after the *outlaw*-

If within one
year may

traverse indictment, &c. *ty* pronounced against him or her, yield himself or herself to one of the judges of the general court, and offer to traverse the indictment whereon the said *outlawry* shall be pronounced as aforesaid, then he or she shall be received to the same traverse, and being thereof found not guilty by the verdict of a jury he or she shall be clearly acquitted and discharged of the said *outlawry* as fully as if no such *outlawry* had been had.

costs how to
be paid,

Provide.

Sec. 4. All costs and charges of the proceedings to outlawry shall be borne and paid by the district where the crime is said to have been committed. *Provided*, that if the person or persons so outlawed shall have real or personal estate, the same or so much thereof as shall be necessary, shall be sold upon a writ of execution from the general court, and the proceeds of such sales shall be applied to the payment of such costs and charges, or so far as the same shall extend, in execution of the district. And in case the party against whom judgment of outlawry is entered shall have a wife and children, or wife or children, within this territory, that in such case there shall be a forfeiture of one half of his estate, real and personal to the territory. And if the party convicted should leave no wife or children as aforesaid, then there shall be a forfeiture of all his estate as aforesaid.

This act is hereby declared to be a law of the Territory of Louisiana, to take effect and be in force from and after the passage thereof.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas, and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set our hands this second day of November, in the year of our Lord one thousand eight hundred and eight, and of the Independence of the United States the thirty third.

MERIWETHER LEWIS.

JOHN B. C. LUCAS.

JNO. COBURN.

AN ACT

*To prevent the damages which may happen
by firing of Woods.*

BE it enacted by the Legislature of the Territory of Louisiana, That whosoever shall at any time, wilfully set on fire any woods, marshes or prairies whatsoever, within this territory, so as to occasion any loss, damage or injury to any other person, every person so offending, and being thereof legally convicted, in the court of quarter sessions of the district where the offence is committed, shall pay a fine not exceeding three hundred dollars and not less than fifty dollars, the one half of such fine to be paid to the prosecutor, and the other half to the district treasurer for the use of the district.

Persons firing woods,
&c. to be
fined—

how recovered and appropriated—

Offender also liable to pay private damages.

Sec. 2 Every person so offending as thereby to occasion any loss, damage, or injury to any other person, shall be and is hereby declared liable to make satisfaction for the same in an action or actions on the case, to be brought by the party grieved, in any court of record within this territory having competent jurisdiction.

When private damages demanded is not above 20 dollars may be tried by a justice,

mode of procedure,

Sec. 3. When any party is injured, and shall not demand above twenty dollars for his loss or damages, it shall and may be lawful for such person to apply to any justice of the peace of the district where the offence is committed, who is hereby empowered and required by his warrant to cause the party offending to be brought before him, or some other justice of the peace of the same district, and if, upon examination, it shall appear to the justice by the testimony of one or more credible persons, that the defendant is guilty of the charge exhibited against him, then the said justice shall issue his warrant to three house holders of the township, commanding them in the presence of the defendant, if he will be present to view the place or thing damaged, or enquire into the loss sustained by the plaintiff, and to certify to the said justice upon their oath or affirmation what damage in their judgment the plaintiff has sustained by occasion of the premises, and upon the return of such certificate to the said justice, he is hereby directed to grant execution for the recovery of the said damages, together with costs of prosecution, as

is usual in the recovery of debts under twenty dollars.

Sec. 4 Nothing in this act shall be confirmed so as to prevent any person or persons from setting on fire any rubbish, leaves, or brush, or prairies on his, her or their farms or plantations, as often as occasion may require, if the same be done without setting on fire the adjacent woods or prairies. And whensoever any person shall wilfully set on fire any woods, marshes, or prairies, every person so offending shall be fined not exceeding one hundred dollars, although no private injury should ensue. proviso

Sec. 5. Where any offence shall be committed against this act, by any slave or servant without the knowledge or consent of the master or mistress, the master or mistress shall be responsible to the full extent of their interest in such servant or slave and no further. Master responsible for offences of slave under this act,

The foregoing is hereby declared to be a law of the Territory of Louisiana, to take effect and be in force from and after the first day of January next. When this act is to be in force.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas, and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set our hands, this second day of November, in the year of our Lord one thousand eight hun-

ated and eight. and of the Independence of
the United States the thirty third.

MERIWETHER LEWIS.

JOHN B. C. LUCAS.

JNO. COBURN.

AN ACT

For the punishment of certain crimes.

MURDER.

Murder, and
how punish-
ed.

BE it enacted by the Legislature of the
Territory of Louisiana, That if any
person or persons shall within this territory
commit the crime of wilful murder, such per-
son or persons, on being thereof convicted,
shall suffer death.

Body of of-
fender may
be delivered
to surgeon
for dissec-
tion,

proviso.

Sec. 2. The court before whom any per-
son shall be convicted of the crime of mur-
der, for which he or she shall be sentenced to
suffer death, may at their discretion add to
the judgment, that the body of such offender
shall be delivered to a surgeon for dissection.
And the sheriff who is to cause such sentence
to be executed, shall accordingly deliver the
body of such offender, after execution done,
to such surgeon as the court shall direct for
the purpose aforesaid: *Provided*, that such sur-
geon, or some other person by him appointed
for that purpose, shall attend to receive and

take away the dead body at the time of the execution of such offender.

Sec. 3. That if any person or persons after such execution had, by force rescue or attempt to rescue the body of such offender, out of the custody of the sheriff or his officers, during the conveyance of such body to any place for the dissection as aforesaid; or shall by force rescue or attempt to rescue such body from the house of any surgeon where the same shall have been deposited in pursuance of this act; every person so offending shall be liable to a fine not exceeding one hundred dollars, and an imprisonment not exceeding twelve months.

Penalty for
rescuing bod-
dy of offend-
der—

Sec. 4. That if any person or persons, having knowledge of the actual commission of the crime of wilful murder or other felony within this territory, shall conceal, and not as soon as may be disclose and make known the same, to some one of the judges or justices of the peace, within the said territory, on conviction thereof such person or persons shall be adjudged guilty of misprison of felony, and shall be imprisoned not exceeding three years and fined not exceeding five hundred dollars.

Misprison of
felony what
deemed,

how punish-
ed—

MANSLAUGHTER.

Sec. 5. That if any person or persons, shall within this territory, commit the crime of manslaughter, and shall be thereof convicted, such person or persons shall be imprisoned not

Manslaugh-
ter,

how punish- exceeding three years and fined not exceed-
ed— ing one thousand dollars.

Previso in Sec. 6. *Provided*, that if any person in the
favor of just and necessary defence of his own life, or
those who the life of any other person, shall kill or slay
commit jus- another person attempting to rob or murder,
tifiable hom- in the field or highway, or to break into a
icide. dwelling house, if he cannot with safety to
himself otherwise take the felon, or assailant,
or bring him to justice, he shall be deemed
guiltless; or if any person while aiding in the
legal execution of process, shall kill the par-
ty unlawfully resisting, such person shall be
deemed guiltless.

On indict- Sec. 7. Wheresoever any person shall be
ment for vo- charged with voluntary *homicide*, happening
luntary hom- in consequence of an unlawful act, it shall be
icide the fe- lawful for the attorney general, or any other
lony may be person prosecuting the pleas of the United
waved, States in this territory, to wave the felony,
and to proceed against and charge such per-
son with a misdemeanor, and to give in evi-
dence any act or acts of manslaughter, and
such person or persons on conviction shall be
fined and imprisoned at the discretion of a
jury, not exceeding one year's imprisonment,
and not exceeding the fine of one thousand
dollars; or the prosecutor as aforesaid, may
or both char- charge both offences in the same indictment,
ged together in which case the jury may acquit the party
of one, and find him or her guilty of the other
charges.

RAPE.

Sec. 8. Any person or persons, who shall have carnal knowledge of any woman, forcibly and against her will, shall be deemed guilty of a rape, and upon conviction thereof, shall be sentenced to castration, to be performed by the most skillful physician, at the expence of the territory, in case the party convicted shall not have sufficient property to pay the same and costs.

Rape, what deemed and how punished—

ARSON.

Sec. 9. If any person or persons, shall wilfully and maliciously burn or cause to be burned, or shall wilfully and knowingly aid or assist in burning or causing to be burned, any dwelling house, store house, barn, stable, grist, saw, or fulling-mill, or other building adjacent or contiguous thereto, every person so offending shall be deemed guilty of arson, and shall be imprisoned not exceeding seven years, and be fined not exceeding ten thousand dollars.

Arson, what deemed, how punished—

HORES-STEALING.

Sec. 10. If any person or persons shall steal from any other person, any horse, mare, gelding, mule, or ass, he, she or they so offending shall on conviction for the first offence pay to the owner of such property double the value thereof, and receive not less than fifty stripes nor more than one hundred; and shall be committed to prison until such sentence be fully complied with. Upon a second conviction, the offender shall be imprisoned.

Horse stealing, how punished.

imprisoned not exceeding seven years, and be fined not exceeding one thousand dollars.

BURGLARY.

Burglary
what deemed,
breaking
houses, etc.
and attempt-
ing to steal,

how punish-
ed.

Breaking
houses, etc.
and actually
stealing

how punish-
ed—

If with per-
sonal force,
etc.

Sec. 11. If any person or persons shall in the night season break open, and enter, any dwelling-house, shop, store, or vessel, in which any person or persons dwell or reside, with a view and intention of stealing therefrom, he, she, or they so offending shall be deemed guilty of burglary, and on conviction thereof, shall be fined not exceeding five hundred dollars, and be imprisoned not exceeding one year.

If any person or persons so breaking and entering any dwelling-house, shop, store or vessel as aforesaid, shall actually steal therefrom any money, goods, or chattles, he, she, or they so offending shall on conviction thereof, moreover be fined in treble the value of the property stolen, one third part of which shall go to the party from whom the same has been stolen; and the other two thirds to the use of the territory, and be whipped on his or her naked back not exceeding thirty not stripes.

If the person or persons so breaking and entering any dwelling-house, shop, store, or vessel as aforesaid, shall commit or attempt to commit any personal abuse, force or violence, or shall be armed with any dangerous weapon or weapons as clearly to indicate a violent intention, he, she, or they so offending upon conviction thereof, shall moreover

stand in the pillory for the space of three hours and be imprisoned not exceeding seven years in addition to the former punishment.

And if the death of any innocent person shall ensue from the breaking and entering any dwelling house, shop, store or vessel as aforesaid, in any of the instances as aforesaid, the perpetrator and the accessory before the fact, shall be deemed guilty of murder.

If death ensue, who shall be deemed guilty of murder.

ROBBERY.

Sec. 12. If any person or persons shall unlawfully and forcibly take from the person of another in the field or highway, any money, goods or chattles, he, she or they so offending shall be deemed guilty of robbery, and upon conviction shall suffer as in the second instance of burglary.

What deemed robbery,

how punished,

Whosoever shall commit such robbery with personal abuse or violence, or be armed at the time with any dangerous weapons, so as to clearly indicate an intention of violence, he, she, or they so offending, upon conviction thereof, shall moreover suffer as in the third instance of burglary. and if the death of an innocent person should ensue from such robbery, the perpetrator with the accessories before the fact, shall be deemed guilty of murder.

if with personal abuse,

how punished—

MAIMING.

Sec. 13. That if any person or persons within this territory, on purpose and of malice, shall maim any person, he, she or they so offending, shall be deemed guilty of maiming, and upon conviction shall suffer as in the first instance of robbery.

Maiming what deemed,

How punish-
ed—

lice aforethought, shall unlawfully cut off the ear, or ears, or cut out or disable the tongue, put out an eye, slit the nose, cut off the nose, or a lip, or cut off or disable any limb or member of any person, with intention in so doing to maim or disfigure such person, in any manner before mentioned, then and in every such case, the person or persons so offending, their counsellors, aiders and abettors (knowing of and privy to the offence afore-said) shall, on conviction, be imprisoned not exceeding seven years and fined not exceeding one thousand dollars.

FORGERY.

Forgery,
what deemed

Sec. 14. Whosoever shall forge, deface, corrupt or embezzle, any charters, gifts, grants, bonds, bills, conveyances, wills, testaments, or written contracts of any nature or kind, or shall deface or falsify any enrolment, registry or record, or matter or instrument recorded, or shall counterfeited the seal or hand writing of another, with intent to defraud, every person so offending upon conviction thereof, shall be fined in double the sum he shall thereby have defrauded or attempted to defraud another, and shall moreover be incapable of sustaining any office of trust or profit in the territory. And all persons, wilfully aiding and assisting in these crimes, or who shall cause or procure the same, or any of them to be perpetrated, shall be deemed principals.

How punish-
ed—

aiders, etc.
deemed prin-
cipals—

Forging seal

And any person or persons, who shall fraudulently forge, deface, corrupt or counterfeit

the seal of this territory, or the seal or signature of any officer within the same, every person so offending upon conviction shall be fined not exceeding five thousand dollars, and imprisoned not exceeding five years.

of territory
etc.

how punished—

STEALING OR FALSIFYING RECORDS.

Sec. 15. That if any person shall feloniously steal, take away, alter falsify or otherwise avoid any record, writ, process, or other proceedings in any of the courts of this territory, by means whereof any judgment shall be reversed, made void, or not take effect, or if any person shall acknowledge or procure to be acknowledged in any of the courts aforesaid, any recognizance, bail or judgment in the name or names of any other person or persons not privy or consenting to the same, every such person or persons, on conviction thereof, shall be fined, not exceeding five thousand dollars, or be imprisoned not exceeding seven years, and whipped not exceeding thirty-nine stripes. *Provided nevertheless*, that this act shall not extend to the acknowledgment of any judgment or judgments by any attorney or attorneys duly admitted for any person or persons against whom any such judgment or judgments shall be had or given.

stealing or
falsifying re-
cords,

how punished—

Provided.

LARCENY.

Sec. 16. That if any person or persons shall steal from another person or persons, or from a dwelling-house, shop, vessel, store-house,

Larceny
what deemed,

How punish-
ed for the
first offence,

For second
conviction.

or other house, in the day time, any money, goods, wares and merchandizes or any other personal property or thing whatsoever, he, she or they so offending shall be deemed guilty of larceny, and upon conviction thereof shall for the first offence, restore the thing stolen to the owner thereof, and pay to him the value thereof, or two fold the value if the thing stolen be not restored, and shall also be fined in a sum not exceeding two fold the value of the thing stolen. Upon a second conviction, restitution and payment shall be made to the owner as aforesaid, and a fine shall also be set and paid to the district not exceeding four fold the value as aforesaid, and be publicly whipped not exceeding thirty nine stripes; and in like manner upon every succeeding conviction. And in case such convict shall not have property, real or personal, wherewith to discharge and satisfy the sentence of the court, it shall be lawful for the sheriff under the direction of the court to bind such person for labor for a term not exceeding seven years to any suitable person who will discharge such fine.

RECEIVERS OF STOLEN GOODS.

Receiving
stolen goods,

Sec. 17. That if any person or persons shall receive or buy any goods or chattles that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, he shall receive, harbor, or conceal any thieves or thieves, knowing them to be so, he the same, they, being of either of the said offences be

gally convicted, shall be liable to the like punishments as in the case of larceny before are prescribed. how punished—

PERJURY.

Sec. 18. That if any person shall wilfully and corruptly commit perjury, or shall by any means, procure any person to commit corrupt and wilful perjury on his or her oath or affirmation in any suit, controversy, matter or cause depending in any of the courts of this territory, or in any deposition taken pursuant to the laws of the same, every person so offending, and being thereof convicted, shall be imprisoned not exceeding three years, and fined not exceeding eight hundred dollars, and shall stand in the pillory for one hour, and be thereafter rendered incapable of giving testimony in any of the courts of the said territory, until such time as the said judgment so given against the said offender shall be reversed. Perjury, and subornation of perjury—

how punished—

Sec. 19. That in every presentment or indictment to be prosecuted against any person for wilful and corrupt perjury, it shall be sufficient to set forth, the substance of the offence charged upon the defendant, and by what court, or before whom the oath or affirmation was taken (averring such court or person to have a competent authority to administer the same) together with the proper averment or averments to falsify the matter or matters, wherein the perjury or perjuries is or are assigned, without setting forth, the On indictment for perjury how the offence to be laid.

bill, answer, information, indictment, declaration, or any part of any record or proceeding either in law or equity other than the afore said, and without setting forth the commission or authority of the court or person or persons before whom the perjury was committed.

For subornation of perjury how the offence is to be laid.

Sec. 20. That in every presentment or indictment for subornation of perjury, or corrupt bargaining or contracting with others to commit wilful and corrupt perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration or any part of any record or proceeding either in law or equity and without setting forth the commission or authority of the court or person or persons before whom the perjury was committed or was agreed or promised to be committed.

BRIBERY.

Bribery what deemed

Sec. 21. That if any person shall directly or indirectly give any sum or sums of money or any other bribe, present or reward, or promise, contract, obligation or security for the payment or delivery of any money, present, or reward, or any other thing to obtain or procure the opinion, judgment or decision of any judge, or justice acting within this territory, in any suit, controversy, matter or cause, depending before him or them, and shall thereof be convicted, such person or persons so giving, promising, contracting or

receiving to be given, paid, or delivered any sum or sums of money, present, reward or other bribe as aforesaid, and the judge or justice, who shall in any wise except or receive the same, on conviction thereof, shall be fined and imprisoned at the discretion of the court, and shall forever be disqualified to hold any office of honor, trust or profit within this territory.

PERSONS OBSTRUCTING THE EXECUTION OF PROCESS.

Sec. 22. That if any person or persons shall knowingly and wilfully obstruct, resist or oppose any officer of this territory in serving or attempting to serve or execute any mesne, process or warrant, or any rule or order of any of the courts of the territory or any other legal or judicial writ or process, whatsoever, or shall assault, beat or wound any officer or other person duly authorized in serving or executing any writ, rule, order, process or warrant aforesaid, every person so knowingly and wilfully offending in the premises, shall on conviction thereof, be imprisoned not exceeding twelve months and fined not exceeding three hundred dollars.

Obstructing
the execution
of process

how punished—

RESCUE OF PERSONS CONVICTED, &c.

Sec. 23. That if any person or persons shall by force set at liberty or rescue any person who shall be found guilty of murder or other capital crime, or rescue any person convicted of capital crime,

Rescue of
persons convicted of capital crime.

how punish-
ed.

Rescue in
certain other
cases.

how punish-
ed,

ed of the said crimes, going to execution, during execution, every person so offending, and being thereof convicted, shall suffer death. And if any person shall by force set at liberty or rescue any person who before conviction shall stand committed for any of the capital offences aforesaid; or if any person or persons shall by force set at liberty or rescue any person committed for or convicted of any other offence against this territory, every person so offending, shall on conviction be fined not exceeding five hundred dollars, and imprisoned not exceeding one year.

COMPOUNDING OFFENCES.

Compound-
ing offences.

Penalty.

Proviso.

Sec. 24. That if any person or persons shall agree or compound to take satisfaction for any criminal offence, such person or persons shall forfeit twice the value of the sum or thing agreed for or taken, but no person shall be debarred from taking his goods or property from the thief, *provided* he prosecutes such thief.

RIOTS AND UNLAWFUL ASSEMBLIES.

Fines on un-
lawful as-
semblies.

Sec. 25. That if three or more persons shall assemble together with an intent to do an unlawful act, with force and violence, against the person or property of another, or to do any other unlawful act, against the peace and to the terror of the people; or being lawfully assembled, shall agree with each other to do any unlawful act as aforesaid.

shall make any movement or preparation for the persons so offending and upon conviction thereof, shall pay as a fine each in the territory the sum of twenty dollars, and forfeitures for the their good behaviour respectively for the space of six months and shall be committed until sentence be performed.

How appropriated.

Whenever three or more persons shall be assembled as aforesaid, and proceeding to commit any of the offences as aforesaid, it shall be the duty of all judges and justices of the peace, and sheriffs, and all ministerial officers immediately upon actual view or as soon as may be upon information, to make proclamation in the hearing of such offenders, if silence can be obtained, commanding them in the name of the United States, to disperse and depart to their several homes or lawful employments, and if upon such proclamation, or when silence cannot be obtained, such persons so assembled shall not disperse and depart as aforesaid, it shall then be the duty of the said judges, justices of the peace, and sheriffs and other ministerial officers respectively to call upon persons near and of abilities and throughout the district if necessary to be aiding and assisting in dispersing and taking into custody all persons assembled as aforesaid. And all military officers and others called upon as aforesaid, are hereby ordered and directed to render assistance and full obedience in this behalf, upon the penalty of ten dollars each for every neglect or refusal herein and commitment in case of non-

Duty of judges, &c. on unlawful assemblies.

If rioters do not disperse the power of the district may be called.

Penalty for refusing to assist officers.

Rioters killed &c. by Judges &c. to be held guiltless.

payment; If any of the persons so unlawfully assembled, shall be killed, maimed or otherwise injured in consequence of resisting the judges, or others in dispersing and apprehending, or in attempting to disperse and apprehend them, the said judges, justices of the peace, and sheriffs and other ministerial officers and others acting by their authority, or the authority of any of them, shall be helden guiltless.

Obstructing the said authority, &c.

Offender to be fined, &c.

And if any person or persons shall forcibly obstruct any of the authority aforesaid, or if any three or more persons shall continue together, after proclamation as aforesaid made or attempted to be made, and prevented by such rioters, or in case of no proclamation any three or more persons being assembled as aforesaid, shall commit any unlawful act as aforesaid, every offender upon conviction thereof, shall be fined in a sum not exceeding three hundred dollars, and give security for good behaviour for a time not more than one year, at the discretion of the court, before whom the conviction may be had: and upon a second conviction each and every offender shall be fined as aforesaid, and find sureties for good behaviour and the peace for a time not exceeding ten years, and may be committed to jail in the district until sentence be fully performed.

USURPATION.

Usurpation

Sec. 26. No person shall take upon himself to exercise or officiate in any office or

place of authority in this territory without what deemed
being lawfully authorised thereto, and if any ed.
person shall presume so to do; he shall upon
conviction thereof be fined in a sum not ex-
ceeding one hundred dollars. How fined:

ASSAULT AND BATTERY.

Sec. 27. If any person shall unlawfully as- Assault and
sault or threaten another in any menacing battery what
manner, or shall strike or wound another, he deemed.
shall upon conviction thereof be fined in a How fined,
sum not exceeding one hundred dollars.... etc.
And the court before whom such conviction
shall be had, may in their discretion, cause
the offender to enter into recognizance with
surety for the peace and good behaviour for
a term not exceeding one year.

FRAUDULENT DEEDS.

Sec. 28. All bonds, bills, deeds of sale, Certain
gifts, grants or other conveyances or obliga- Deed, void,
tions whatever, made with intent to deceive fine on per-
and defraud others, or to defeat creditors of sons making
their just debts or demands shall be null and them, etc.
void, and the person or persons so offending
shall upon conviction thereof be fined in a
sum not exceeding three hundred dollars,
and pay double damages to the party or par-
ties injured.

OBTAINING GOODS BY FRAUDU- LENT PRETENCES.

Sec. 29. If any person or persons shall Obtaining
knowingly and designedly by any false pre- goods by

fraudulent
pretences.

How punish-
ed—

tence or pretences, obtain from any other person or persons, any monies, goods or merchandize, or other effects whatever, with intent to cheat or defraud such person or persons of the same, he, she or they so offending shall on conviction thereof by verdict or confession on judgment, suffer such punishment as in case of larceny is provided to be inflicted.

HOG STEALING.

Hog stealing
what deem-
ed.

how punish-
ed—

Proviso.

Sec. 30. Any person who shall steal any hog, shoat, or pig, or mark or alter the mark of any hog, shoat, or pig, with an intention of stealing the same, for every such offence, upon being thereof lawfully convicted shall be fined in any sum not exceeding one hundred dollars and moreover receive on his or her bare back any number of lathes, not exceeding thirty nine nor less than twenty five.

Provided nevertheless, that nothing herein contained, shall be so construed as to prevent any person from marking or killing his own unmarked hogs, which may be running at large with others in his own mark.

BIGAMY, and FORCIBLE and STOLEN MARRIAGES

Bigamy,
what
deemed.

Sec. 31. If any person or persons within this territory, being married, or who shall hereafter marry, do at any time marry any person or persons the former husband or wife being alive, upon conviction thereof shall be

whipped on his or her bare back not less than one hundred, nor more than three hundred stripes well laid on; be fined in not less than one hundred, nor more than five hundred dollars, to and for the use of the party injured, and imprisoned not less than six nor more than twelve months, and thereafter be rendered infamous; be incapable of giving testimony or holding any commission civil or military in this territory. And the party and parties so offending shall receive such like proceedings, trial and execution within this territory as if the offence had been committed in the district where such person shall be taken or apprehended. *Provided* that nothing herein contained shall extend to any person or persons whose husband or wife shall be continually remaining beyond the seas for the space of seven years together, or whose husband or wife shall absent him or herself, the one from the other for the space of seven years together in any part within the United States of America or else where, the one of them not knowing the other to be living within that time. *Provided also*, that nothing herein contained shall extend to any person or persons that are or shall be at the time of such marriage divorced by lawful authority, or to any person or persons who the former marriage hath been or hereafter shall be by lawful authority declared to be void and of no effect: Nor to any person or persons for or by reason of any marriage had or made, or hereafter to be had or made without the age of consent.

how punished.
ed.

where to be
tried.

proviso in
case of ab-
sence for
seven years

in case of
divorce,

or within age
of consent.

DISOBEDIENCE of CHILDREN and SERVANTS.

Disobedient
children, &c.
how to be
dealt with,

& punished,

Persons con-
victed under
this act to be
imprisoned,
until, etc.

Jury to fix
private dam-
ages—

property of
offender
bound from
his arrest—

rule of
evidence.

Sec. 32. If any children or servants, shall contrary to the obedience due to their parents or masters, resist or refuse, to obey their lawful commands, upon complaint thereof to any justice of the peace, it shall be lawful to such justice, to send him or them so offending to the jail or house of correction there to remain, until he or they shall humble themselves to the said parent's or master's satisfaction. And if any child or servant shall contrary to his bounded duty presume to assault and strike his parent or master, upon complaint and conviction thereof, before two or more justices of the peace, the offender shall be whipped not exceeding ten stripes.

Sec. 33. In all cases of conviction under this act, the party convicted shall remain in confinement until all the costs attending his prosecution are paid and his sentence is fully complied with. And the jury in such case may ascertain the amount of private damages, which the injured party shall receive of the party convicted, for which execution shall issue in favour of the party injured as in civil cases.

Sec. 34. The property, real and personal of every person charged under this act, shall be bound, from the time of his arrest at least so far as will be sufficient to pay to the extent of his condemnation. The competency of a witness shall not be questioned,

because he may receive restitution for an injury done him by the conviction of the party charged. In all cases of imprisonment and offences committed under this act, it shall and may be lawful for the keeper, of every prison to compel the prisoner to labor at the usual employment within the prison, and such directions and regulations as may from time to time be given by the respective courts of common pleas, within their districts. If at any time a party receiving a wound or other injury in one district, shall sustain the same wound or injury in another district, it shall be lawful to prosecute the offender in either of those districts.

Certain persons may be compelled to labor in prison, &c.

Sec. 35. That the operations of this act shall extend only to free persons, but that every slave committing any offence specified in this act, shall be punished at the discretion of the court, except in cases of murder and arson, for which offences the slave shall suffer death upon conviction by a jury. And in case of a rape the slave shall suffer the same punishment as a free person. This act shall also extend to all crimes committed by any free persons (excepting Indians) or any other free person beyond the limits of any settlement within this territory. And the offender shall be apprehended or brought to the more convenient district and prosecuted according to law.

Certain cases in which this act shall not extend to slaves.

Sec. 36. It shall be the duty of the clerk of each court at the end of each term, to issue execution for

Clerk to issue execution for.

fines—

Shff. to col-
lect same,

sue an execution and deliver the same to the sheriff of the district, where the court is held, commanding him to collect each and every fine imposed during the term, as in case of execution on civil process. And it shall be the duty of the sheriff to pay over such fines according to the directions of the sentence pronounced.

Accused in
certain cases
to have list of
jury, etc.

and counsel
assigned him

and compul-
sory process
for witnesses

Sec. 37. That any person who shall be accused and indicted of any capital offence, shall have a copy of the indictment and a list of the jury two entire days at least before the trial: and that every person so accused and indicted for any of the crimes aforesaid, shall also be allowed and admitted to make his full defence by counsel, learned in the law—and the court before whom such person shall be tried, or some judge thereof, shall and they are hereby authorised and required immediately upon his request, to assign to such person such counsel, not exceeding two, as such person shall desire, to whom such counsel shall have free access at all seasonable hours. And every such person or persons accused or indicted of the crimes aforesaid, shall be allowed and admitted in his said defence to make any proof that he or they can produce, by lawful witness or witnesses, and shall have the like process of the court where he or they shall be tried, to compel his or their witnesses to appear at his or their trial as is usually granted to compel witnesses to appear on the prosecution against them.

Proceedings

Sec. 38. That if any person or persons be

indicted of any of the offences herein before set forth, for which the punishment is declared to be death, if he or they shall stand mute, or will not answer to the indictment, or shall challenge *peremptorily* above the number of twenty persons of the jury, the court in any of the cases aforesaid, shall notwithstanding proceed to the trial of the person or persons so standing mute or challenging, as if he or they had pleaded not guilty, and render judgment accordingly.

where, prisoner stands mute, or challenges more than twenty, etc.

Sec. 9. That the benefit of clergy shall not be used or allowed upon conviction of any crime, for which by the statute of the territory, the punishment is or shall be declared to be death.

Benefit of clergy not admitted—

Sec. 40. That no person or persons shall be prosecuted, tried, or punished for any of the capital offences aforesaid, wilful murder or forgery excepted, unless the indictment for the same shall be found by a grand jury within three years next after the capital offence aforesaid shall be done or committed. Nor shall any person be prosecuted, tried, or punished for any offence not capital, nor for any fine or forfeiture under any penal statute, unless the indictment or information for the same shall be found or instituted within two years from the time of committing the offence, or incurring the fine or forfeiture aforesaid. *Provided*, that nothing herein contained shall extend to any person or persons fleeing from justice.

limitations of prosecutions under this act.

Provided

Punishment
of death how
to be inflicted;
and when.

Sec. 41. That the manner of inflicting the punishment of death shall be by hanging the person convicted by the neck until dead. All of which punishments shall be executed in not less than twenty days nor more than thirty days from the time sentence is pronounced.

Conviction
not to work
corruption on of
blood, etc.

Sec. 42. That no conviction or judgment for any of the offences aforesaid shall work corruption of blood, or any forfeiture of estate.

Fines appropriated.

Sec. 43. All fines not herein otherwise appropriated accruing under this act shall be to the use of the district in which the offender shall be tried.

Former law
repealed.

Sec. 44. That the law of this territory entitled "a law providing for the punishment of certain crimes," be and the same is hereby repealed, *except* so far as respects crimes that may have been committed before the passage of the present act. *Provided however* that it shall be optional to any person that may or shall be tried for crimes committed or alleged to have been committed at the time in the preceding part of this section mentioned to apply to the court, before which such person may be charged of any crime or offence for the purpose of being tried under the present act, which may be granted.

Proviso.

Altering and
defacing

Sec. 45. If any person or persons shall alter or deface the mark or brand of any other

person or persons horse, neat cattle or hog, marks and brands on horses, etc.
 such person being thereof convicted, by indictment or presentment, shall for every horse mare, colt, neat cattle, or hog, whose mark or brand he or she shall alter or deface, forfeit and pay the sum of five dollars, over and above the value of such horse, mare, colt, neat cattle, or hog, to the person whose mark or marks, brand or brands, shall be so altered and defaced. *Provided* he prosecute the same within six months after discovery of the fact committed. And the offender shall over and above the said fine receive forty lashes on his or her bare back well laid on: and for the second offence shall pay the fine aforesaid, stand in the pillory two hours, and receive not exceeding sixty lashes on his or her bare back, well laid on:—And if any person or persons shall mismark or misbrand, any unmarked or unbranded horse, mare, colt, neat cattle, or hog, not properly his or their own, he or they shall forfeit and pay the sum of five dollars over and above the value thereof for every such horse, mare, colt, neat cattle, or hog, so mismarked or misbranded, which fines shall be recovered by indictment or action of debt in any court of record within this territory.

first offence

how punished—

Proviso.

further punishment

second offence.

fine for mis-marking, &c.

how recovered.

And to prevent the concealing of such offences, if any person or persons shall see any other person or persons, committing any of the crimes aforesaid, and shall not discover the same, in ten days, to some magistrate, then and in such case, such person or persons, for

Fine on persons for concealing the commission of said crimes—

not discovering such crimes or any of them committed, shall forfeit and pay the sum of ten dollars to the use of the district, to be recovered by any person or persons who will sue for the same, by action of debt or by indictment or information in any court of record in this territory.

What shall be deemed sufficient evidence.

And because it is difficult to convict any person who has seen such crime committed, if he will deny the same it shall be sufficient evidence to convict any person, that he has seen such crime committed, if it be proven that he has told any person, that he did see the said crimes or any of them committed.

Persons killing cattle or hogs in the woods how to proceed,

And whereas the common custom in this territory of killing hogs in the woods, gives great opportunities to stealing the cattle and hogs of other people. *Be it therefore enacted*, that if any person or persons shall kill any one or more neat cattle or hogs in the woods, he shall within three days shew the head and ears of such hog or hogs, and the hide with the ears on of such neat beast or cattle to the next magistrate or two substantial householders, under the penalty of ten dollars, to be recovered by any person who will sue for the same by action of debt, information or indictment in any court of record in this territory.

penalty on failure.

Ear marks and brands to be recorded with clerk of district

Every person in this territory, who hath horses, cattle or hogs shall have an ear mark or brand different from the ear mark or brand of all his neighbours, which ear mark or brand he shall record with the clerk of the

district, where his horses, cattle or hogs are :
 for recording of which ear mark and brand
 the clerk shall be entitled to demand and receive his fees.
 the sum of twelve and a half cents —
 And every person shall brand horses with the
 brand from eighteen months old and up At what ages
 wards, and ear mark all his hogs from six to brand and
 months old and upwards, with the said ear mark—
 mark, and ear mark or brand all his cattle
 from twelve months old and upwards with
 and ear mark or brand. And if any dispute disputes how
 should arise about any ear mark or brand, settled,
 the same shall be decided by the book of the
 book of the district, where such cattle, hor-
 or hogs are.

Where any person shall buy any neat cat
 from any other person, or come to the Purchasers
 one by gift, will or any other lawful means of horses &c.
 and in such case the person, who has thus to brand
 the same, by any of the ways afore- them with
 shall within eight months, brand the their own
 neat cattle with his own proper brand mark
 the presence of two credible witnesses, a
 certificate whereof shall be signed by the said
 witnesses.

If any person shall cause to be brought to Selling hogs
 his own house, or any other house or on board without ears
 any vessel, any hog shoat or pig, without how punish-
 ed —
 the or she so offending shall be adjudged
 hog stealer. *Provided nevertheless,* that
 any person may bring or cause to be brought
 to his or her own, or any other house, or on
 any boat or boats, or other vessel, his
 T

or her own swine, though without ears, he or she proving the same to be his or her property.

Repealing
clause.

Such part or parts of any law of this Territory as are repugnant to this act, shall be and the same is hereby repealed

The foregoing is hereby declared to be Law of the Territory of Louisiana, to take effect and be in force from and after the passage thereof.

In testimony whereof, we, Meriwether Lewis, governor and John B. C. Lucas and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set hands at the town of Saint Louis, the first day of November, in the year of our Lord one thousand eight hundred and eight, of the Independence of the United States of America the thirty third.

MERIWETHER LEWIS,

JOHN B. C. LUCAS,

JNO. COBURN.

AN ACT

Regulating the interest of Money.

BE it enacted by the Legislature of the Territory of Louisiana, That creditors, excepting as is herein after specified, shall be allowed to receive interest at the rate of six per cent. on all moneys lent to be interest at the rate of six per cent.

at six per centum per annum, for all monies
 when they become due, on bond, bill, promissory
 note, or other instrument in writing, on
 judgment recovered in any court of re-
 cord now, or hereafter to be established,
 within the territory, from the day of signing
 judgment until effects be sold, or satisfaction
 of such judgment be made: likewise on
 money lent; on money for the forbearance
 of payment whereof an express promise
 has been made for the payment of interest;
 money due on the settlement of accounts,
 on the day of liquidating accounts between
 parties, and ascertaining the balance; on
 money received to the use of another and
 withheld without the owner's knowledge, and
 money withheld by an unreasonable and
 unexcusable delay of payment.

Sec. 2. No person or persons shall on any
 contract which shall be made, directly or in-
 directly, take for the loan or use of money,
 or other commodity, above the value of six
 dollars for the forbearance of one hundred
 dollars, or the value thereof, for one year,
 and so proportionably for any greater or less
 terms, any law, custom, or usage to the
 contrary notwithstanding. *Provided*, that
 where the parties expressly agree, that any
 obligation shall bear interest not exceeding
 the rate of ten per centum, shall be deemed
 legal, any thing in this section to the contra-
 ry notwithstanding; and the several courts
 of this territory are hereby required to give
 judgment accordingly.

No person to
 take more
 than six per
 cent. per an-
 num interest;

Proviso.

Penalty for
taking more
than legal in-
terest.

Sec. 3. If any person shall directly or in-
directly receive any money, obligation, pro-
mise, or other commodity by way of premi-
um or any other name, by which the same
may be called or understood, to the end of
obtaining any higher rate of interest than six
per centum per annum for the loan or use of
any money or any other commodity (except
as is herein before provided) on any con-
tract, which shall hereafter be made; and
shall institute an action for the recovery of
the money due on, or by reason of the breach
of such contract so as aforesaid made; it
shall be lawful for the defendant in such ac-
tion in pleading to set forth the special matter
in bar of so much of the real sum of money,
or price of the commodity, actually lent, ad-
vanced or sold, as shall be the amount of the
aforesaid premium or sum, actually received.
And if the plea of the defendant is contested
or adjudged good on *demurrer*, or supported
by the verdict of a jury, then and in every
such case the plaintiff shall recover no more
than what remains of the aforesaid sum of
money, or price of the commodity actually
lent, advanced or sold, after deducting the
said premium, without even any interest on
the principal. And if a residue is still left,
the plaintiff may enter judgment for the
same, and have execution with interest and
costs accruing from the signing of the judg-
ment. *Provided always*, that if the premi-
um or usurious interest, and costs exceed the
principal or real sum of money or the price
of the commodity actually lent, advanced or

Proviso.

field, the excess shall be deemed a debt of record, and on motion of the defendant made in open court, such defendant may enter judgment for the same with costs at the next or any subsequent term, within the year, and have execution accordingly.

The foregoing is hereby declared to be a law of the Territory of Louisiana, to take effect and be in force from and after the passage thereof

In testimony whereof, we, Meriwether Lewis governor, and John B. C. Lucas, and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set our hands at St. Louis, this fifth day of November, in the year of our Lord one thousand eight hundred and eight and of the Independence of the United States of America the thirty third.

MERIWETHER LEWIS.

JOHN B. C. LUCAS.

JNO. COBURN.

AN ACT

Supplementary to the act entitled "an act ascertaining the fees of the several officers and persons therein named, and regulating the payment of costs on indictments," and for other purposes.

Atty. gen'l's
fees aug-
mented.

*All this act,
except the 1st
Section, Repealed*

BE it enacted by the Legislature of the Territory of Louisiana, That the attorney general of this territory or his deputy shall in lieu of the fees heretofore allowed him for similar services be entitled to receive the following, to wit,

For every indictment in all cases in the court of oyer and terminer, returned 'not a true bill,' to be paid out of the district \$ 15 00

For every indictment returned 'a true bill' by the grand jury in the court of oyer and terminer to be paid out of the defendant's estate if convicted, or out of the district treasury if acquitted, or the defendants estate, if not sufficient to pay the same dolls. 30 00

Allowance
to clerk of
Gen. Court
for extra ex-
pences,

Sec. 2. The clerk of the general court shall be entitled to a reasonable compensation to be paid out of the territorial treasury, for such extraordinary expences and trouble which he has incurred or may hereafter incur in consequence of the removal of certain

essions of the general court to St. Genevieve, which account when it shall be examined, allowed and certified by the general court shall be a sufficient voucher to the treasurer.

Sec. 3. The several sheriffs within this territory shall be entitled to receive a reasonable compensation for the safe keeping and maintainance of any live flock, or perishable articles seized by them, under legal process, which allowance shall be adjudged, and directed by the several courts of common pleas.

Fees of sheriff's in certain cases.

Sec. 4. The several courts in this territory shall be authorized to make a reasonable allowance to their clerks for such furniture and stationery as may from time to time be deemed proper and necessary for the use of their respective offices, and the certificate of the general court shall be a sufficient warrant to the territorial treasurer for the payment of the sum thus certified, and the certificates of the said courts of common pleas respectively shall be deemed sufficient vouchers to the several auditors.

Courts may make allowance to Clerks, for stationary etc.

How paid:

Sec. 5. So much of any act of this territory as is repugnant to the provisions in this act contained, shall be and the same is hereby repealed.

Repealing clause.

The foregoing is hereby declared to be a law of the territory of Louisiana, to take effect and be in force from and after the passage thereof.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas, and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set our hands, at the town of St. Louis, this fifth day of November, in the year of our Lord one thousand eight hundred and eight, and of the Independence of the United States of America the thirty third.

MERIWETHER LEWIS.

JOHN B. C. LUCAS.

JNO. COBURN.

AN ACT

To amend an act entitled "an act to establish courts of justice, and regulating judicial proceedings."

Writ to be paid for out of the issuing of the same.

Non-resident plaintiff's to give security for costs.

BE it enacted by the Legislature of the Territory of Louisiana, That in all cases where any person shall apply for an original writ from the clerk of any court of this territory, the legal fees for issuing the same shall be paid to the clerk at the time the writ is issued or delivered: and that every person who shall not be a resident within this territory, shall before he institutes any suit in the courts of this territory, file or cause to be filed a bond, with sufficient security, with the clerk of the court where his suit is instituted,

for the payment of all costs which may accrue in said suit: and if at any time after the commencement of a suit by a resident, he should become non-resident of this territory, it shall be the duty of such suitor, to file his bond as aforesaid, and it shall be lawful for the defendant, or the clerk or sheriff in the court, in which such suit is brought to give at least one month's notice to the plaintiff as aforesaid, or his known agent or attorney, that a motion will be made to dismiss the said suit from the docket, *provided* bond and security for costs is not filed; and in case of neglect or refusal to comply with such notice, it shall be the duty of every court, on motion to dismiss such suit.

Sec. 2. In every suit brought within the fifteen days immediately preceding the term of the court, in which it is instituted, the writ shall be made returnable to the second term of said court next ensuing the date of the writ.

Certain writs when to be returnable.

Sec. 3. If at any time after a judge of the general court is allotted to hold a special court of oyer and terminer, the presiding judge is informed in writing by the judge so allotted, that such judge who is allotted as aforesaid, cannot attend, it shall be lawful for the presiding judge to appoint some other judge, to fill the vacancy in the special court of oyer and terminer.

When judge allotted to hold court of oyer and terminer, cannot attend, another to be appointed.

Sec. 4. Whenever an execution, order, or decree of a court is placed in the hands of

Property seized by

sheriff and title disputed a jury to be called.

By whom jury are to be paid.

Certain cases in which a plaintiff shall give security for costs.

Or sue as a pauper.

Lands taken on execution on what day to be sold &c.

the sheriff, for the sale of property, and any other person sets up a demand against the property seized, the sheriff shall be authorized to summon a jury to determine the right of property and the verdict of such jury shall be an indemnity to the said sheriff, as far as respects the right of property.—And the party against whom the verdict is rendered shall pay the costs of their ascertaining the right of property, and such jurors shall be entitled to the same fees as jurors are entitled to in other cases.

Sec. 5. If at any time a court should be satisfied that a plaintiff is unable to pay the costs of suit, or that he is so unsettled as to endanger the officers of the court with respect to their legal demands, it shall be lawful for the court to direct that a notice should be served on such plaintiff, his attorney, or agent requiring him to file a bond with security for costs, on default of which his suit shall be dismissed. But it shall be the duty of such court if the plaintiff shall satisfy them of his incapacity to prosecute his suit, to declare him a *pauper*, and permit his suit to proceed as such.

Sec. 6. In all cases where lands shall be taken on execution the same shall be sold on the second day of the court, and the execution shall be returned on the last day of the term. And where an execution shall be issued from the court of common pleas of any district into any other district of this territory

if, the lands taken by virtue thereof shall be sold as aforesaid by virtue of the first execution so issued out of the district, and the sheriff shall return the execution to the clerk within the same in thirty days after such sale.

Sec. 7. So much of the act to which this is an amendment, or any other act of this Territory, as is repugnant to this act is hereby repealed. Repealing clause.

The foregoing is hereby declared to be a Law of the Territory of Louisiana, to take effect and be in force from and after the passage thereof.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set our hands at the town of Saint Louis, the seventh day of November, in the year of our Lord one thousand eight hundred and eight, and of the Independence of the United States of America the thirty third.

MERIWETHER LEWIS,

JOHN B. C. LUCAS,

JNO. COBURN.

AN ACT

To authorize the Courts of Common Pleas of the respective districts within the Territory of Louisiana, to allow certain compensations in certain cases to deputy gaolers and also to compensate certain services rendered by the deputy gaolers of the district of Santa Louis.

Court of
Com. Pleas,
may make
allowance for
deputy Gaol-
ers.

BE it enacted by the Legislature of the Territory of Louisiana, That whenever any of the sheriffs of the respective districts within this territory, shall be of opinion, that any of the gaols of the respective districts, are insufficient to secure the prisoners that shall be confined therein, and that the situation of any of said gaols is such, that they cannot give all the necessary attendance to the same, they shall respectively give information thereof to the respective courts of common pleas at their next sitting: whereupon it shall be lawful for the said respective courts if they deem it expedient, to allow any sum not exceeding one hundred and fifty dollars per annum to a deputy gaoler for each district, so long as they may see cause for it, and make similar orders and revoke them, agreeable to their discretion, and as in their opinion the cases may require. *Provided, however,* that such deputies shall be appointed by the sheriffs, and shall be under their

Proviso.

sole discretion, and removed by the same when the said respective sheriffs shall see cause.

Sec. 2. That the sums that shall be allowed for the aforesaid compensation or any part thereof in proportion to the duration of the services of the respective deputies, shall be paid to the said deputies by the treasurers of their respective districts, on the order or warrant of the auditors of said districts, who shall audit and allow the said compensation to the said deputy gaolers, on the said deputies producing to the auditors a certificate under the hands of the sheriff, that the said deputies have performed the duties thereof during so long a time, as the case may be, and also on producing a duly certified copy of the order of the court, by which such respective deputies shall be allowed compensation.

Services of
deputy gaol-
ers how to be
certified and
paid.

Sec. 3. That a sum of one hundred and ninety nine dollars and eighty seven cents, is hereby allowed to Jeremiah Connor, sheriff of the district of St. Louis, in lieu of a similar sum which he hath paid to others persons acting as deputy gaolers under him for their services as deputies. *And likewise,* that a sum of one hundred and twenty five dollars and eighty four cents is hereby allowed to James Anderson, for the remaining part of his services as deputy gaoler of the said district until the date of this act. Which sums shall be allowed by the auditor of the

allowance to
J. Connor.

allowance to
J. Anderson

district of Saint Louis, as chargeable to said district.

Sheriff's to provide certain prisoners with food.

how to be paid therefor

and fuel,

and how paid therefor.

Proviso,

Sec. 4. That whenever any person or persons committed upon criminal process, under the law of this territory, shall declare that he or they are unable to buy or procure their necessary food, in such cases the sheriffs of the respective districts shall provide such prisoner or prisoners with food, which shall be allowed to them respectively, by the respective district auditors, at the rate of twenty-five cents per day. And when the inclemency of the season or the sickness of any prisoner or prisoners, shall in the opinion of the respective sheriffs require that such prisoners should be furnished with fire, it shall be the duty of such sheriffs to furnish the necessary fuel, and charge the same to the district.—*Provided however,* it shall be the duty of the respective auditors, to reduce the said charges to what they shall deem to be reasonable in case they should find them to be excessive

The foregoing is hereby declared to be a law of the territory of Louisiana, to take effect and be in force from and after the passage thereof.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas, and John Coburn, judges, in and over the Territory of Louisiana, have hereunto set our hands, at the town of St. Louis, this ninth day of November, in the year of our Lord one thousand eight hundred and eight, and

of the Independence of the United States
of America the thirty third.

MERIWEATHER LEWIS.

JOHN B. C. LUCAS.

JNO. COBURN.

AN ACT

Concerning public roads and highways.

BE it enacted by the Legislature of the Territory of Louisiana, That whenever petition shall be presented to the court of quarter sessions, signed by twelve or more freeholders, inhabitants of the district, praying for the establishment of a public road, to run from a certain place to a certain place therein specified, it shall be the duty of such court thereupon, if the petition shall appear reasonable, to appoint a surveyor, and three discreet and disinterested householders, to view the said proposed road, and to survey and mark out the same of a sufficient width, by the nearest and most practicable course, and make and return a plot thereof under their hands to the next court (noticing thereon the distances and courses as nearly as may be of such proposed road) which plot and return shall be filed, and the said court shall thereupon cause the clerk to publish by posting up in the proper district at the usual place or places of public notification, a cer-

Twelve or more freeholders may petition Qr. sessions to lay out road;

Court may appoint surveyor, &c. to view, survey and mark the same—

Plot thereof to be made and returned to court—

copies to be posted up, etc.

tified transcript of the petition, plat, and return for the information of the inhabitants of said district.

Court to order shff. to summon jury to fix amount of damages in certain cases.

Damages to be paid out of district treasury.

Sufficient cause not shewn, road to be established—

District to be divided into road divisions—

Supervisors

Sec. 2. And be it further enacted, that whenever the road so laid out, shall pass through the lands of any person or persons who shall object to the same before the next court, the said court shall thereupon order the sheriff to summon a jury of twelve householders of the district, who shall upon view of the ground through which such objection has been made to the passing of such road, and upon oath certify to the court their opinion, whether any damage, and if any, how much damage would accrue to the owner or owners of such ground by the passing of the road through the same—and such damages shall be paid to the owner or owners of such lands out of the district treasury upon the order of the court. And if no sufficient cause be shewn to the said court why the proposed road so surveyed and designated as aforesaid, should not be allowed and established, the said court shall declare the said road so surveyed, platted, and designated, to be a public road and highway, so to remain until altered by authority of law and the said plat, return, and survey, shall be thereupon recorded.

Sec. 3. And be it further enacted, that the said courts of quarter sessions in each and every district shall divide their district into as many road divisions as they shall think proper, and shall appoint one or more supervisors

of roads in each division; which supervisors shall have the charge of making and repairing the roads in his or their division or divisions respectively. And the said courts shall appoint annually two discreet road assessors to each road division, who together with the supervisor or supervisors of such division, shall assess on each able bodied male person of full age a certain number of days, to labour on the public roads, under the directions of the supervisor or supervisors, not exceeding thirty days nor less than two days in one year; which number of days so assessed each person by himself or by his substitute shall labour and work on the public roads as aforesaid. And the said assessment shall be made on each person in proportion to his or her property as nearly as may be. And it shall be the duty of such supervisors to cause to be made and kept in repair, all the roads within his division as shall be determined public roads by the court as aforesaid. *Provided* that when the supervisors shall want teams to work on said roads they may commute personal labour thereof.

to be appointed in each—

and road assessors—

their duties

who shall work on public roads.

Proviso.

Sec. 4. And be it further enacted, that as often as occasion may require, the supervisors shall notify all or a part of those liable to work and labour, on the public roads, three days at least before the day on which the labour is to be performed, to appear at a specific time and place with their necessary tools and implements, for labouring and working on the public roads. And if any person so notified

Supervisors to notify those who are liable to work on the roads—

Penalty on
failure to
appear, &c.

how recover-
ed and ap-
propriated.

shall neglect or refuse to appear as aforesaid, or appearing shall neglect or refuse to labour and work on the road, by himself or substitute conformably to the orders and direction of such supervisor, such person shall forfeit and pay for every such offence the sum of two dollars, which sum shall be recoverable before any justice of the peace of the district, and paid to the supervisor, who shall apply the same to the hiring of labourers to work on said roads.

Penalty on
supervisor or
assessor for
not doing
their duty—

how recover-
ed and ap-
propriated.

Sec. 5. And be it further enacted, that if any supervisor or assessor appointed as aforesaid, shall neglect to perform his duty as such, he shall be fined by the said court in a sum not less than ten dollars nor more than forty dollars, which sum shall be applied to the hiring of labourers to work on the roads of the division to which such person shall belong, and shall be recovered in the said court of quarter sessions of the proper district.

The foregoing ^{is} hereby declared to be a law of the Territory of Louisiana, to take effect accordingly.

In testimony whereof, we, James Wilkinson, governor, and Return Jonathan Meigs, junior, and John B. C. Lucas, judges, in and over the Territory of Louisiana, have hereunto set our hands, at the town of Saint Louis, the ninth day of July, in the year of our Lord one thousand eight hundred and

ix, and of the Independence of the United States the thirty first.

J. A. WILKINSON.

RETURN J. MEIGS, jr.

JOHN B. C. LUCAS.

AN ACT

To provide for the opening of a road from the town of Saint Louis to the town of New-Madrid.

BE it enacted by the Legislature of the Territory of Louisiana, That it shall be the duty of the commissioners appointed in pursuance of an act of this territory, to view, and lay out a road from the town of Saint Louis to the town of Saint Genevieve, from thence to the town of Cape Girardeau, and from thence to the town of New-Madrid, to make as soon as possible the report of their proceedings to the governor of this territory, and if approved by him, he is required to transmit to the clerks of the courts of quarter sessions of the respective districts, through which the said road is laid out, a copy of the plat of such part of the road as passes through the respective districts, together with its courses and distances.

Commissioners to report to governor.

proceedings thereafter.

Sec. 2. It shall be the duty of the respective clerks to enter the aforesaid transcripts

Duty of clerks.

on record, and to lay the same before the court of quarter sessions at their next session.

Courts of
Qr. sessions

to appoint
super-
visors
their duties.

Sec. 3. The road so laid out by the said commissioners, if approved of by the governor, is hereby confirmed, and declared to be a public road, and it shall be the duty of the respective courts of quarter sessions of the district through which the same passes, upon the receipt of the aforesaid transcripts, to appoint supervisors and cause the said road to be cleared and opened of the breadth of twenty five feet, in the same manner as is provided by an act of this territory entitled "an act concerning public roads," and all the provisions of the said act respecting the manner of opening and clearing roads, and indemnifying persons who object to roads on account of passing through their lands, are hereby extended to the road to be opened in pursuance of this act.

certain ex-
pences
provided for.

Sec. 4. The governor is authorized and required to draw his warrant or warrants on the treasurers of the respective districts through which said road passes, for such expences as may accrue on account of making the transcripts of the report of the commissioners provided for by this act.

The foregoing is hereby declared to be a Law of the Territory of Louisiana, to take effect from and after the passage thereof.

In testimony whereof, we, Meriwether Lewis, governor and Otho Shrader, and John Coburn, judges, in and over the Terr-

tory of Louisiana, have hereunto set our hands at the town of Saint Louis, the tenth day of November, in the year of our Lord one thousand eight hundred and eight, and of the Independence of the United States of America the thirty third.

MERIWETHER LEWIS,

OTHO SHRADER,

JNO. COBURN.

AN ACT

Regulating the Fiscal concerns of the Territory, defining the duties of certain officers concerned therein, and for other purposes.

BE it enacted by the Legislature of the Territory of Louisiana, That there shall be appointed and commissioned by the Governor in each district of this territory, a competent person as auditor of public accounts, who shall previous to entering on the duties of his office, give bond to the Governor of the territory and his successor in office, for the use of the district of which he is auditor, in the sum of one thousand dollars, with at least two sufficient sureties, to be approved of by the court of common pleas of his district, conditioned as follows; that he shall justly and honestly audit and fairly

Auditor to be appointed in each district.
to give bond
condition of bond.

keep all accounts between the district where he is auditor and any individual, and that he will deliver to his successor in office books, and other vouchers which shall be him kept by virtue of this law.

Court of com-
pleas to ap-
point yearly
2 assessors.

Clerk to give
certificates
thereof to
auditor—

auditor to for-
ward them.

Auditor to
notify the as-
sessors to
meet.

Duty of audi-
tors and as-
sessors when
met.

Auditor and
assessors to

Sec. 2. It shall be the duty of the court of common pleas in each district to appoint at their first session in each and every year, two house holders of such district, excepting the district of Arkansas in which one only shall be appointed as assessor, and the clerk of the court shall give within ten days thereafter to the auditor, certificates of such appointment, and the said auditor shall forthwith transmit to each assessor so appointed such certificate.

Sec. 3. The auditor shall notify the said assessors appointed as aforesaid, to meet at the district town, at a certain day to be by him appointed as aforesaid, not more than ten days after the appointment of the assessor has been made.

Sec. 4. It shall be the duty of the auditor and assessors when met, to settle and adjust the relative value of the aggregate property of the said district (as nearly as may be) made taxable by this act, and to make an estimate of the probable expence of their district, and how much per cent is to be laid on the valuation of the taxable property to defray the probable expences of the ensuing year.

Sec. 5. Each auditor and assessor commissioned and appointed as aforesaid, shall be

Before entering on the duties of his office, take take oath.
 and subscribe an oath or affirmation, before
 some justice of the peace of the proper dis-
 trict, dilligently faithfully and impartially to form of oath.
 perform the several duties enjoined on him
 by this act, to the best of his abilities and
 judgment, without favour or affection, ha-
 tred, malice, or ill will, which oath or affir-
 mation the justice before whom the same how, by
 shall be taken shall certify and send to the whom and to
 clerk of the court of common pleas, to be whom certi-
 filed in his office. fied.

Sec. 6. If any person appointed as assessor person ap-
 neglect or refuse to serve in such office, pointed as-
 shall be liable to pay a fine of twenty dol- essor refus-
 lars, to be recovered by the auditor, for the ing to serve
 neglect of the district, in the same manner as debts to be fined.
 under sixty dollars are recoverable by law.
provided, that no person shall be obliged to proviso.
 serve as assessor more than once in five years.
 If the court should neglect to appoint an as-
 sessor, or if any assessor appointed refuses or
 neglects to serve, or if vacancies happen by
 death or otherwise, the auditor shall supply how vacan-
 the vacancy by appointing a house holder of cies are to be
 the district to fill said office, who shall in all filled.
 cases have the same powers, be subject to the
 same penalties, and receive like compensation
 though he had been appointed by the court
 of common pleas.

Sec. 7. If any person upon demand by any Persons fail-
 assessor for a return of his taxable property, ing to make

return of
taxable prop-
erty; or
making a
false one to
be fined,
how recover-
ed and for
what use.

and the as-
sessor shall
make list, &c.

shall neglect or refuse to make such return, or if any person shall make a false or fraudulent return, in all such cases such person shall be liable to a fine not exceeding twenty dollars, to be recovered by a justice of the peace, for the use of the district, like debts under sixty dollars: and it shall be the duty of the assessor to make the list of such person's taxable property agreeable to the best information he can obtain in the neighborhood of such person, and to charge such person with double the amount of taxes due on such property.

Names of
single men to
be given in
to the asses-
sor.

Sec. 8. It shall be the duty of every household to give to the assessor at the time he makes return of his taxable property, and under the same penalties, the names of single men above the age of twenty one years, who lodge or dwell in their respective houses.

Auditor to is-
sue his pre-
cepts, and as-
sessor to
make return.

Sec. 9. Within thirty days after the meeting of the auditor and assessors the auditor shall issue his precepts to the assessors, requiring them to make out a just and perfect return in alphabetical order, of the names of the taxable persons within the limits assigned to them as assessors, and of all the property made taxable by this act, together with a just valuation of the same. It shall be the duty of the auditors to hold an appeal in each township and give notice in the most public manner of the time and place at which he will sit to hear appeals from the assessments and lists of the as-

Auditor to
hold appeal
in each town-
ship,

assessors, which notice shall be given at least ten days before the time of hearing such appeals; at which times and places the said assessors within their respective divisions shall attend with their lists.

notice thereof to be given.

assessors to attend at appeals.

Sec. 10. The said assessors, on receipt of said precept issued by the auditor agreeable to the preceding section, shall proceed to take an account of all the names and surnames in alphabetical order, of all taxable inhabitants within the limits assigned to them, and of the following articles hereby made taxable, viz :

assessors to make lists in alphabetical order.

All lands in actual cultivation, houses, lots of ground, water mills, saw mills and horse mills, all distilleries, and tan-yards actually in operation, or shall have been so within three months next preceding the application of the assessor, all negro and mulatto slaves between the ages of sixteen and forty five years, (except such as the auditor may exempt on account of sickness or disability) all stud horses, and other horses, mares, geldings, mules, asses and neat cattle, above the age of three years, all billiard tables, all carriages of pleasure, and all single men above the age of twenty one years, who have no taxable property to the amount of one hundred dollars.

what property shall be taxable

It shall be the duty of the assessor to value such property to the best of his ability and judgment for what he thinks it will *bona fide* sell for in ready money.

Sec. 11. The said auditor and assessors shall observe the following rates of taxation on

Rates of taxation.

the objects herein after mentioned, viz: on each horse, mare, mule or ass, a sum not exceeding thirty seven and a half cents; on all neat cattle a sum not exceeding ten cents for each; on every stud horse a sum not exceeding the rate for which he stands the season, on every bound servant or slave a sum not exceeding one dollar, and on every able bodied single man of twenty one years of age and upwards, not having taxable property to the amount of one hundred dollars, not exceeding one dollar; on all billiard tables the sum of one hundred dollars, and on the amount of other taxable property a sum not exceeding two hundred cents in every two hundred dollars in the estimate.

Auditor after
the appeal to
make list,

and issue his
warrant to
sheriff, to col-
lect same in
2 months,

who is to ac-
count with
auditor in 3
months,
or show suffi-
cient excuse

Sec. 12. It shall be the duty of the auditor after having received the return of the assessors held the appeal in the ninth section provided for, to regulate the assessment according to the alterations made, and make a fair list in alphabetical order of the amount of taxes wherewith each person stands charged, and to issue his warrant, together with such list thereto annexed, to the sheriff, authorising and requiring him to receive and collect from every person in such duplicate named, the sum wherewith such person stands charged, within two months after the receipt of such warrant, and the said sheriff shall, within three months from the date of their respective warrants, account with the auditor for the amount of said tax bill or shew sufficient excuse to the said auditor why the

whole of said tax bill has not been collected : for not doing
provided that the said auditor shall in all cases it—
 receive as sufficient excuse from the said sheriff, what shall be
 the amount of taxes due by persons who a sufficient
 may remove out of the district, or who may excuse for
 prove insolvent, the sheriff making oath that the sheriff.
 he has made use of every exertion in his power
 to obtain the said tax, or to the fact of re-
 moval or insolvency, and the auditor shall
 give the said sheriff a credit on the tax bill
 for the amount thereof—and it shall be the
 duty of the several auditors to certify such
 list of delinquents and transmit the said list
 from time to time into such districts as he may
 receive information such delinquents may
 reside, which list so certified shall be sufficient
 authority to the sheriffs of the respective dis-
 tricts to collect the several amounts contain-
 ed in the list as aforesaid, and transmit the
 same to the sheriff of the proper district, who
 shall thereafter account for the same as he is
 herein before directed—and if the sheriff
 shall fail or neglect thus to account with the
 auditor, he shall for every such neglect or re-
 fusal, forfeit and pay for the use of the dis-
 trict of which he is sheriff, ten per centum
 per month, on the sum or sums he has thus
 failed to account for, or to collect, until he
 shall collect or account for the same, to be re-
 covered in the court of common pleas of such
 district, on motion of the auditor, the attorney
 general or his deputy, ten days previous no-
 tice having been given to such sheriff or a
 copy thereof left at his usual place of abode,
 for which fine and costs execution shall issue

shall to have
 credit for
 such defi-
 ciency.

Auditor to
 transmit lists
 of delin-
 quents to o-
 ther districts
 in certain
 cases :

how collect-
 ed and ac-
 counted for :

sheriff failing
 to account
 with auditor
 as aforesaid
 to be fined.

Fine to be re-
 covered in
 com. pleas,
 and in what
 manner.

monies col-
lected under
this act how
to be dispos-
ed of.

certain spe-
cific appro-
priations to
support ter-
ritorial
treasury.

Auditor's
salary.

compensa-
tion to as-
sessor,

sheriff to
give bond,

as in other cases. All monies collected by the sheriff as aforesaid shall remain in his hands subject to warrants that may issue in pursuance of the provisions of this act, and to the payment of twenty per centum of the whole amount thus collected, to be by him paid into the territorial treasury as is herein after directed. And in order to provide a more sufficient fund to defray territorial expences, the sheriffs of the respective districts shall pay to the territorial treasury, all monies arising within their districts respectively from the tax on feed horses or stallions; from licences for selling and vending merchandizes, tavern licences, ferry licences and billiard tables, together with all fines and penalties under the said licences as is herein after provided.

Sec. 13. The auditors shall receive for their services annually the following sums, to wit: the auditors of the districts of Saint Charles, Saint Louis, and Saint Genevieve, each two hundred dollars: the auditor of the district of Cape Girardeau, one hundred and fifty dollars; and the auditors of the districts of New-Madrid and the Arkansas, each one hundred dollars: and each assessor shall receive one dollar and fifty cents per day whilst actually employed in the discharge of the duties of his office the same to be ascertained and fixed by the auditor of his district.

Sec. 14. The sheriff previous to entering upon the collection of said tax, shall execute and file in the office of the clerk of the court of common pleas, a bond in a penal sum of

five thousand dollars, payable to the governor of the territory of Louisiana, or his successor in office, for the use of the territory and district of which he is sheriff, with two or more responsible sureties; to be approved of by the court of common pleas, or any two judges hereof, for the faithful collection and payment of all sums of money wherewith he shall be chargeable, in manner directed by law. The sheriff is authorised to employ one or more deputies to collect said tax, but he and his sureties in the aforesaid bond to be answerable for their conduct.

condition of
bond.

sheriff may
appoint de-
puty to col-
lect taxes.

Sec. 13. If at any time the auditor shall not attend any appeal by him appointed in pursuance of this act it shall be lawful for any justice of the peace of the district there- to required by the auditor to attend at the time and place appointed for such appeal; and then there to hear and determine all complaints that may be exhibited by any inhabitant of such district, in the same manner as the auditor is by this act authorised to do, and every justice of the peace so attending shall be entitled to the sum of two dollars for every days attendance, as aforesaid, to be deducted from the salary of the auditor.

Justice of the
peace to hold
the appeal in
certain cases.

Justices'
compensa-
tion.

Sec. 16. If any person charged with district taxes by virtue of this law, shall neglect or refuse to pay the same to the sheriff when demanded, the sheriff or his deputy shall have power to distrain the property of such delinquent, and after giving ten days previous no-

Persons fail-
ing to pay
taxes, sheriff
may distrain
for the same,
give ten days

notice to sell. tice of such distress, shall proceed to sell the same to the highest bidder. *Provided always*, that the delinquent may at any time before the property distressed is sold, demand to receive the same, on tendering the amount of taxes due and the expences of keeping the property distrained. The over plus of every sale made for the non payment of taxes shall be paid by the sheriff to the owner after deducting his fees and expences.

owner on
paying tax
&c to receive
property—

overplus to
be returned.
Auditor to
adjust, &c.

demands on
district trea-
sury,

issue certifi-
cates therefor

form of cer-
tificate—

to be lawful
tender for
taxes, etc.

to bear
interest.

auditor to
keep book
and enter
certificates
therein, etc.

Sec. 17. It shall be the duty of the auditors in their respective districts to audit, adjust, and ascertain the amount due on all orders and demands on the district treasury, and having ascertained the same according to law, shall issue their certificates for the amount thereof in the following form, viz: "I do hereby certify that the sum of _____ is due to _____ A. B. by the district of C. for value received, and do hereby direct that the sheriff of the district of C. pay to D. E. or his bearer, on demand the said sum of _____ and sign the same as auditor of the district of C. and the same are hereby declared to be a lawful tender in the payment of taxes, or other debts due to the district treasuries respectively. And the said certificate shall moreover bear an interest of six per centum per annum, commencing one month from and after the date of the same. And it shall be the duty of the auditors as aforesaid to keep a book, in which he shall enter in a conspicuous manner, all certificates he may issue

and file the accounts on which he has issued the same, which accounts when thus audited and filed, shall be sufficient vouchers for his issuing the certificates aforesaid provided the said accounts are authorized by law. And the auditor in each district as aforesaid, shall within ten days before the first term in each year of the court of common pleas in his district produce to any two judges of the said court who shall be assigned by the said court for that purpose his book wherein the registry of the certificates issued by him has been made, together with the accounts filed as therein before directed, for the inspection and examination of the said judges, together with a transcript on oath containing a correct statement of his official transactions, and if the said judges shall find that the vouchers are according to law, and that their amount does not exceed the amount of certificates issued, the said judges shall give to the said auditor a certificate of the same, which certificate shall be a bar to any proceedings against the auditor thereafter for any delinquency or neglect in office, previous to such inspection and examination of his books and vouchers. But should it appear to said judges that the said auditor has issued certificates to a greater amount than his vouchers on file authorize, or that the said vouchers are not authorized by the laws of this territory, it shall be the duty of the said judges forthwith to report the same to the governor of this territory, with such explanatory remarks and observations

accounts to be filed by auditor.

With whom, when, and in what manner the auditor is to settle his accounts.

When the books, etc. of auditor are approved of, certificate thereof to be given him,

which shall bar all proceedings against him,

When auditor has exceeded his duty, the same to be reported to the governor

as will give the governor a comprehensive view of the transaction.

sheriffs to be
district treasurers.

to keep book.

in what manner kept—

not to give
themselves
credit, unless
etc.

to lodge
transcript
etc. ten days
before each
term of com.
pleas and set-
tle their ac-
counts with

Sec. 18. The sheriffs of the respective districts in this territory shall safely keep all monies which they may collect for the use of the district, until authorized to pay the same by the certificate or warrant of the auditors of such districts respectively. And it shall be the duty of the said sheriffs to keep an accurate, intelligent and comprehensive account of all the monies by them received and disbursed in books to be by them kept for that purpose, in which books they shall state from whom monies were received (except for district taxes) and on what account, and to whom monies have been paid and on what account; but the said sheriff shall not give themselves credit as treasurers on said books for any monies which may be due them by their proper districts for their services as sheriffs, until their accounts shall have been duly audited as is herein before directed with respect to all other claims and demands against the district treasury nor shall they receive any credit for any disbursement whatsoever, unless the same be supported by the certificate of the auditor of the district of which they are sheriff. And it shall be the duty of the said sheriffs at least ten days before each term of the court of common pleas in their respective districts to lay before two of the judges of the said court, assigned by that court for that purpose, an accurate and certified transcript of their respective accounts.

upon the oath or affirmation of such sheriff 2 of the judges thereof, which may have occurred since the term of such court last preceding; together with their aforesaid treasury books, for the inspection and examination of the said judges, and shall at the same time and at each and every term settle with the said judges his treasury accounts, and if the said sheriff neglect or refuse to lay before the said judges an accurate and certified transcript, upon oath or affirmation, of his treasury accounts, and to make the settlement with the said judges as aforesaid, he shall for every such neglect or refusal forfeit and pay for the use of the district of which he is sheriff, not less than thirty dollars nor more than one hundred dollars for each month until he shall lodge the transcript and make the said settlement before mentioned; to be recovered in the court of common pleas, on motion of the auditor, the attorney general, or his deputy, and for which fine and costs execution shall issue as in other cases. And if on any settlement or adjustment of the accounts of any sheriff had before said judges under the direction of this act, it shall appear from the statement of such sheriff that there is a balance of public money in his hands, it shall be lawful for the court of the proper district to enter up a judgment or judgments against such sheriff to the extent of such balance, in favor of any person or persons who may present to them a certificate or certificates signed by the auditor of the district, authorizing a payment from the treasury, giving preference to the certificates presented according to their respective

sheriff failing to do so to be fined.

Fine how to be recovered.

When there is a balance of money in hands of sheriffs; what proceedings shall be had.

after each
settlement
judges to
burn certifi-
cates, and
give certifi-
cate to sheriff

and file du-
plicate with
the clerk.

Sheriff to file
at each term
of com. pleas
a statement
of monies
by him re-
ceived for
territorial
treasury.

to be by clk.
forwarded to
territorial
treasurer.

Shff. failing
to make the
same to be
fined.

dates. And it shall be the duty of the said judges on each settlement with the sheriff as aforesaid, immediately to destroy, by burning in the presence of the sheriff and three more respectable witnesses, all the certificates which they may have admitted the said sheriff to take credit on his said treasury book, and shall give the said sheriff a certificate expressive of the state of his treasury book, and of the amount of the certificates thus destroyed, a duplicate of which certificate the said judges shall make out and cause to be filed by the clerk in the district aforesaid.

Sec. 19. The sheriffs of the several districts in this territory shall each within his proper district, on the first day of each term of the court of common pleas within said district file with the clerk of said court an accurate and certified statement of all monies which he may have received in behalf of the territory since his last settlement with the territorial treasurer or his last statement aforesaid, which statement or statements the said clerk shall without unnecessary delay forward to the territorial treasurer, to be by him retained and kept as evidences of debt against the said sheriff. And if any sheriff shall fail or neglect to file the said statement as aforesaid, the said court shall on motion of the territorial treasurer, or the attorney general or his deputy, fine the said sheriff for each and every such offence in any sum not exceeding one hundred dollars nor less than twenty dollars, the said sheriff having been previously served with five days notice, and

execution shall issue as in other cases. And it shall be the duty of each of the sheriffs. to pay into the territorial treasury on the first Monday in October, and on the first Monday in April, in each year, all the monies which may have been by him received for the said territory since his last settlement with the treasurer thereof, retaining only such part thereof as he is by law allowed for collecting the same. And if any Sheriff shall fail or neglect to pay into the territorial treasury the monies which he has received for the use of the said territory within ten days after the time herein before directed, or shall fail or neglect to file with the clerk of the proper district the statement of monies received by him for the use of the territory as aforesaid, such delinquent Sheriff shall for each failure or neglect forfeit for the benefit of the territory ten per centum each month, on all such monies as he should or ought to have paid into the treasury aforesaid in conformity to the provisions of this act, which said monies shall thereafter be accounted for by the said delinquent as other monies belonging to the said territory. The said sheriffs shall be allowed by the respective auditors from time to time such sums as may appear to the said auditors necessary to defray the expences of his treasury books and stationary.

Sh^{eriff} to pay money into territorial treasury on the 1st Monday in October & April.

on failure, to be fined.

Auditor to make allowance for books, etc. to Sheriff.

Sec. 20. It shall be the duty of the territorial treasurer to receive all monies which by law shall be payable into the territorial treasury, and the said monies safely keep for the use of the territory. And it shall be the du-

Territorial treasurer, his duties

upon whose
orders he is
to pay money

To lay trans-
cript of his
accounts be-
fore legisla-
ture

in what court,
at what term,
by whom, &
in what man-
ner delinquent
sheriff or col-
lector of ter-
ritorial reve-
nue is to be
proceeded
against.

ty of the said treasurer to keep an accurate
intelligent and comprehensive account of all
monies by him received and disbursed, in
book to be provided for that purpose, in which
book he shall state from whom monies have
been received, and on what account, to what
order and to whom monies have been paid
and on what account and he shall pay out of
the said treasury, all monies which may be
drawn for by order of the legislature for their
incidental expences, also all monies which
may be drawn for by order of the governor
for the payment of salaries of the territorial
officers as well as all other territorial expen-
ces, and also to the orders of the general
court such sums as may be necessary to de-
fray the incidental expences of such court
and the said treasurer shall when required by
the legislature an accurate and certifi-
ed transcript of the territorial treasury account
together with his afore said book for their in-
spection and examination.

Sec. 21. Where the sheriff or collector of
the territorial revenue shall fail or neglect to
pay the same into the territorial treasury
he shall fail to file with the clerk of the district
of which he is sheriff, the statement of monies
which he may have received for the territory
as he is herein before directed, it shall be the
duty of the attorney general or his deputy, to
proceed against such delinquent sheriff and
his sureties by motion in the court of com-
mon pleas of said district within the term

next ensuing that at which it is herein before provided that such statement should have been filed by said sheriff with the clerk of the district aforesaid.

Sec. 22. The attorney general or his deputies shall be entitled to receive for every judgment obtained upon application by them in pursuance of this act the same legal fees which attorneys are entitled to in other cases, to be paid by the party against whom such judgment is given, and the respective clerks shall be entitled to the same fees as is provided by law in other cases.

Fees allowed
to attorney
gen. clerk,
&c.

Sec. 23. When any certificate shall be paid by the sheriff, the said sheriff shall take the receipt of the bearer for the amount of the interest he has actually paid the said bearer on the said certificate, and the said sheriff shall receive no credit for the interest on any certificate except the same be entered on the certificate as aforesaid.

Sheriff to take
receipt on
certificates
for the a-
mount of in-
terest paid
thereon.

Sec. 24. The sheriffs shall receive in full for their services twelve per centum for all monies which they may have collected and disbursed on account of their districts respectively, and shall receive eight per centum on all monies collected by them and paid into the territorial treasury as is herein before directed.

Compensa-
tion of sheriffs.

Sec. 25. When any account and order authorized as is provided by section 20, shall be

Territorial
treasurer to

pay orders on
him if there
is money
sufficient.

if not to give
a certificate
to holder.

form of cer-
tificate.

Certificates
to bear
interest.

T. treasurer
to redeem
certificates.

presented to the territorial treasurer for payment the said treasurer shall file the same as his voucher, and shall pay the amount due thereon to the proprietor thereof: but should there not be a sufficient deposit in the territorial treasury to enable the said treasurer to discharge the said account and order as aforesaid nor any part thereof, then the said treasurer shall forthwith give to the proprietor of such order or account, as aforesaid, a certificate of the amount due him from the territorial treasury on settlement of said account and order; the said certificate to be given in the form following, viz: "I certify that the Territory of Louisiana is justly indebted to A. B. or bearer the sum of _____ for _____ value received, as will appear from his _____ account and the order of _____ now _____ on file in my office, bearing date the _____ day of _____," and shall sign the same as treasurer of the territory of Louisiana — The certificates issued as aforesaid shall bear interest at the rate of six per centum per annum, and are hereby made a lawful tender in the discharge of any debt due to the territorial treasury. The territorial treasurer shall, and he is hereby directed to make out and sign any number of certificates as aforesaid for any sum not less than twenty dollars, at the discretion of the proprietor of any lawful claim as aforesaid against the Territory to the amount of said claim. The Territorial treasurer shall at all times liquidate the debt of the territory by redeeming the certificates or any part thereof which he may have issued as aforesaid when the same

shall or may be presented to him for payment, paying a due respect to the priority of the accounts or orders upon which he has issued the same. When any certificate shall be redeemed by the territorial treasurer, the said treasurer shall take the receipt of the bearer for the amount of the interest he has actually paid the said bearer on the said certificate, and the said treasurer shall receive on credit for the interest on any certificate except the same be entered on the certificate as aforesaid.

priority of claims.

amount of interest paid to be received for on certificate.

Sec. 26. It shall be the duty of the auditor to adjust all claims that now may be had by any person against the district and to issue his certificate for the same, directed to the sheriff—to carry into effect all contracts that have been entered into by the commissioners, to contract for all necessary repairs for the jail, pillory or court house, and to issue his certificates for the expences thereof on the sheriff—to issue his certificates as aforesaid for all expences that have been allowed by the court of quarter sessions and common pleas for officers' fees, jailors' fees, and contingent expences of the said courts; provided that if the necessary repair of any jail or court house shall exceed the sum of two hundred dollars, or if in the opinion of the auditor the funds in the treasury and the circumstances of the district will admit of the building of a jail or court house, it shall be the duty of the auditors to lay the estimate and plan of such repair or building, as the case

Auditor to adjust claims and give certificates ;

to carry former contracts into effect, etc. to repair court houses, etc,

provided amount does not exceed 200 dollars—

if so— then to be laid before Ct Q sessions and G.

Jury of dis-
trict.

may be, before the court of quarter session and before the grand jury impanelled at such court. If the estimate and plan is approved of by the grand jury or any twelve or greater number the said auditor shall be authorized and enjoined to cause such repair or building to be made with all convenient speed, and to issue his certificates for the expenses thereof as aforesaid.

Commission-
ers, treasur-
ers, etc. to
produce their
books, etc.
to auditor,

he to audit
their acc'ts

books, etc. to
be left with
him.

monies in
treasurer's
hands to be
paid to sh^r
Persons fail-
ing to appear
before audi-
tor with
books, etc.
to be fined,

how recover-
able.

Sec. 27. It shall be the duty of the auditor of each district to cause to come, before him within forty days after this law takes effect, as well the late commissioners, their clerks and the district treasurers or such person as may have been employed by or under the late commissioners, treasurers or collectors, and to require them to produce all books, papers, accounts and vouchers relative to their public accounts, and to audit, adjust and settle their accounts with the district. All books, papers, accounts and vouchers shall remain in the care of the auditor, and all monies in the hands of the treasurer or collector shall forthwith be paid to the sheriff. If any person required in pursuance of this act and notified at least five days shall fail to appear before the auditor and to produce books, papers, accounts and vouchers relative to the public accounts of the district, such person shall be liable to a fine not exceeding one thousand dollars nor less than one hundred dollars, to be recoverable in the court of quarter sessions of the proper district like other fines. If any treasurer shall fail or

neglect to pay the monies in his hands to the Treasurer failing to pay over monies in his hands to sheriff—how to be proceeded against, and fined,
 it shall be the duty of the court of common pleas upon the motion of the sheriff, attorney general or his deputy five days previous notice being given, to enter up a judgment for such sum of money and to award execution for the same with costs, and ten per centum interest per month until such money is paid, the said ten per cent to be a fine to the district.

Sec. 28. All offences against this law shall be sued for and prosecuted within twelve months after such offence is committed.—Provided always, that if any person or persons be sued or prosecuted for any thing done in pursuance of this law, he or they may plead the general issue and give this law and the special matter in evidence for their justification. And if the plaintiff or prosecutor become non suit or suffer a discontinuance of the same, or if a verdict is given in favor of the defendant in such suits general issue may be pleaded, and special matter, &c. given in evidence—defendant entitled to costs on non-suit, etc.
 or information he shall recover the costs awarded by law as in other cases in the same court where said offence is prosecuted.

Sec. 29. From and after the first day of January next every person within this Territory being owner or occupier or possessor of merchandize other than the produce or manufacture of this Territory, shall previously to offering the same for sale, by himself or agent, within this Territory or on any of the waters within or bounding the same, pay to the sheriff for the use of the district in which he or she resides or offers such merchandize for

Venders of merchandize to obtain certificate,

sheriff to
grant the
same—

form of
certificate—

penalty for
selling with-
out a certi-
ficate—

sheriff to pro-
secute for
same—
provided in la-
vours of cer-
tain persons,

sale, the sum of ten dollars for each store or
stand in which he or she may vend such mer-
chandize, and the sheriff on receipt thereof
shall give such person paying as aforesaid
certificate in the words following, to wit:
“ Territory of Louisiana, the day of
“ one thousand eight hundred
“ and . This certifies that A. B.
“ authorized to vend merchandize within the
“ Territory for six months from the date
“ hereof, the said A. B. having this day paid
“ to me C. D. sheriff of the District of
“ the sum of ten dollars, it being the sum of
“ annual tax imposed on the retailers of mer-
“ chandize, by a law of this Territory. C. D.
“ sheriff of the district of .” And
any person obtaining a certificate as aforesaid
shall be authorized to vend and sell merchan-
dize by retail in this Territory for six months
from the date thereof, and no longer. And if
any person or persons shall after the first day
of January next presume by himself or a
agent to vend or sell any kind of merchandise
within this Territory or on any of the waters
aforesaid not the growth or manufacture of
this Territory, not having obtained a certi-
ficate as aforesaid, he or she so offending shall
for every such offence forfeit and pay a fine
not exceeding eighteen dollars to and for the
use of the Territory, to be recovered at the
suit of the sheriff, whose duty it is hereby
made to prosecute therefore before any court
proper to try the same. Provided that every
person who has paid for and received a licence
to sell merchandize in pursuance of the law

his Territory, shall not be compelled to take
pay for a licence provided for by this law
until after the expiration of his former li-
cence.

whose licen-
ces are not
expired.

Sec. 30. The act of this Territory entitled
an act for raising district rates and levies, an
the act creating the offices of district and
territorial treasurers, defining certain duties
of the sheriffs and providing a more efficient
fund to defray territorial expences, "which be-
and the same is hereby repealed from and af-
ter the first day of January next.

certain acts
repealed.

The foregoing is hereby declared to be a
law of the Territory of Louisiana, to take
effect and be in force from and after the first
day of January next."

This act
when in force.

In testimony whereof we Meriwether Lewis,
Governor, and John B. C. Lucas and Otho
Shrader, Judges, in and over the Territory of
Louisiana, have hereunto set our hands this
seventh day of November, in the year of our
Lord one thousand eight hundred and eight,
and of the Independence of the United States
of America the thirty third:

MERIWETHER LEWIS.

JOHN B. C. LUCAS.

OTHO SHRADER.

AN ACT

*Establishing a seal of the Territory of
Louisiana,*

Seal hereto-
fore used de-
clared to be
the seal of
this territory.

by whom to
be kept.

BE it enacted by the Legislature of the Territory of Louisiana, That the seal heretofore used by the Governor of the Territory, shall be, and is hereby declared to be the seal of the Territory of Louisiana. And that the secretary of the Territory shall keep the same, and affix the said seal to all commissions. *Provided* that unless in cases where the Secretary exercises the Government of this Territory, the said seal shall not be applied to any commission before the same shall have been signed by the Governor, or any other instrument or act, without a special warrant of the Governor therefor.

The foregoing is hereby declared to be the law of the territory of Louisiana, to take effect and be in force from and after the passage thereof.

In testimony whereof, we, Meriwether Lewis, governor, and John B. C. Lucas, and Otho Shrader, judges, in and over the Territory of Louisiana, have hereunto set our hands, at the town of St. Louis, this eleventh day of November, in the year of our Lord one thousand eight hundred and eighty-one of the Independence of the United States of America the thirty third.

MERIWETHER LEWIS,
JOHN B. C. LUCAS,
OTHO SHRADER.

TERRITORY OF LOUISIANA,

SECRETARY'S OFFICE }
April 29, 1809. }

I CERTIFY that the foregoing Acts of the Legislature, commencing with "A law establishing the office of Sheriff," ending with "An act establishing the Seal of the Territory of Louisiana," and comprized in 372 octavo pages, have been compared and found literally conformable with the originals preserved in my office.

FREDERICK BATES,

SECRETARY OF LOUISIANA,

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